

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA) CAUSE NO. 3:04-CR-240-P
(
vs.)
(NOVEMBER 6, 2008
(DALLAS, TEXAS
HOLY LAND FOUNDATION, ET AL (9:00 A.M.

VOLUME 33 OF 37

STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE
and a jury

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1 THE COURT: Good morning.

2 Let's go ahead and take up these Government's objections
3 to the exhibits.

4 Are you addressing these, Ms. Duncan?

5 MS. DUNCAN: I am, Your Honor.

6 THE COURT: Okay. The first two, 364 and 532, are
7 photos.

8 MS. DUNCAN: I think that is right, Your Honor. Let
9 me look in my little stack.

10 THE COURT: Same objection on foundation?

11 MR. JACKS: The photos, yes, Your Honor. And then
12 also in addition there is these two, No. 1198 and 1199, this
13 graffiti.

14 THE COURT: Yes. And we will get to those. I was
15 just taking them in the order you have them listed.

16 MS. DUNCAN: Yes, I see them, Your Honor.

17 As to both Defense Exhibits No. 364 and 532, we expect
18 the Defense witness has personal knowledge of the scenes that
19 are depicted therein. For example, with No. 532 in his work
20 as Consul General he frequently visited the UNWRA camps and
21 can identify the UNWRA sign.

22 THE COURT: Okay. Of course, that will just depend
23 on you laying the foundation, so we can carry that one along.

24 That No. 966, that United Nations resolution?

25 MS. DUNCAN: Yes, Your Honor.

1 THE COURT: Resolution of 12/18/92, that was in
2 reference to the deportation?

3 MS. DUNCAN: That is correct, Your Honor. And we
4 are offering that as a public record. He knows the
5 circumstances of this and will be testifying about it, so it
6 is admissible as a public record. And the case law the
7 government cited to this Court to offer --

8 THE COURT: I don't have a problem as far as -- The
9 trouble I am having is just the relevance of the U.N.
10 resolution.

11 MS. DUNCAN: The relevance of it, the Government has
12 attempted to portray the Holy Land Foundation's support for
13 the people who were deported as support for Hamas, and the
14 fact is that the international community, including the U.N.,
15 found this to be a grave human rights violation, and this
16 resolution gives context to that support, and that the support
17 was intended to just remedy that grave human rights crisis,
18 not to support any terrorist group. It simply was to provide
19 humanitarian aid to those who needed it. And this resolution
20 gives context to that aid that the Holy Land provided and
21 gives a fuller picture than what has been offered through the
22 Government's witnesses.

23 THE COURT: Mr. Jacks?

24 MR. JACKS: Your Honor, first of all, it is not
25 certified as a public record. It doesn't even show that it is

1 printed off the internet. So again we are just -- The Defense
2 is circumventing the Rules of Evidence in terms of complying
3 with what is required to authenticate a public record. And
4 the Government has endeavored not to do that, and there is no
5 reason that the Defense could not have written a letter to the
6 U.N., asked for a certification from the U.N., and asked for a
7 copy of this resolution.

8 Notwithstanding that, whatever the U.N.'s position was on
9 this particular event is not really relevant. And there has
10 been testimony already that there was criticism of the
11 government of Israel and this item of evidence. And I assume
12 he is going to testify to that effect.

13 This item of evidence is not necessary and it is, you
14 know -- it is not relevant to that particular issue. It is
15 just another -- It is an attempt to inflame the jury and
16 arouse the emotions of the jury.

17 And the point really, the Government is not putting in
18 evidence that so much that the Holy Land -- They are putting
19 in evidence that the Holy Land Foundation supporting these
20 individuals, but the most probative part of that fact is the
21 fact that these individuals identified themselves as members
22 of Hamas, to show not so much the rightness or the
23 inappropriateness of them being deported, but the fact that it
24 identifies that the Holy Land Foundation is aware of the fact
25 that these are Hamas individuals. So the issue about what the

1 U.N., how it regarded this event is not really relevant to
2 this discussion.

3 And as I said, this document has not been authenticated.
4 Again, it doesn't even rise to the level of showing something
5 that was downloaded off the internet.

6 MR. JONAS: Your Honor, with regard to the
7 individuals, we highlighted specific individuals because those
8 are the same individuals who are later connected to the zakat
9 committees that Holy Land dealt with, so we pinpointed our
10 evidence to those individuals to show that those individuals
11 are Hamas, not the support overall.

12 THE COURT: All right.

13 Ms. Duncan?

14 MS. DUNCAN: With respect to the Government's
15 argument on relevance, they had an opportunity to describe
16 their meaning to that event, and now we are asking for our
17 opportunity to describe our meaning to that event, and this
18 particular document is relevant to that meaning.

19 With respect to the authenticity, it is not required that
20 this be certified. It is required that looking at this, it
21 appears to be what it appears to be. I mean, we could
22 probably get a copy that has a tag-line off of the internet,
23 but it will look just like this. I mean, this is an exhibit I
24 believe that came in during the last trial.

25 MS. HOLLANDER: It did come in during the last

1 trial, Your Honor, and Mr. Abington is familiar with this. I
2 mean, he personally knows about it.

3 THE COURT: I assumed he would. That is why --

4 MS. HOLLANDER: He could probably recite it without
5 looking at it.

6 MS. DUNCAN: In terms of the relevance, also it is
7 important to remember that the United States is a member of
8 the Security Council at the time that this resolution was
9 issued, and that they were part of this resolution.

10 THE COURT: But the concern that I have is what the
11 United Nations did -- Evidence has come out that the
12 international community criticized this. It goes to the
13 Israeli action with the deportation. That is really not an
14 issue that is here in this case.

15 You have evidence that that has been criticized, and of
16 course, you have evidence as to why Holy Land did what they
17 did to help, and that has been throughout the case, so I think
18 this is irrelevant to the issue. I will sustain the objection
19 to No. 966.

20 No. 1071, then, is a letter from USAID to Larry Brady
21 regarding grant information.

22 MS. HOLLANDER: May I ask a question about if the
23 document doesn't come in, I assume I can ask my witness about
24 the deportations.

25 THE COURT: The deportation and the international

1 community criticism. I don't want to get into did the U.N.
2 pass a resolution criticizing it in specifics, but then that
3 -- you can get into certainly that it was criticized.

4 MS. HOLLANDER: I will just need to tell him,
5 because otherwise it will come out in his answer.

6 THE COURT: All right.

7 MS. HOLLANDER: Thank you.

8 THE COURT: And No. 1071, do you have that before
9 you, Ms. Duncan? That is that letter of May 16th, 2002 from
10 USAID to Larry *Brady* regarding a grant?

11 MS. DUNCAN: Yes, Your Honor. And before the letter
12 is a table of grants that were made by USAID and identifying a
13 grant that was made to the Nablus zakat committee. Mr.
14 Abington is familiar with this particular project. He has
15 personal knowledge of that project, and that is why we are
16 seeking to introduce this.

17 THE COURT: Mr. Jacks?

18 MR. JACKS: Judge, him saying that he has personal
19 knowledge of this project, I think that that needs to be
20 explored. He may have been told about this project, but that
21 is not personal knowledge. And this document is dated May
22 16th of 2002. Mr. Abington, according to his earlier
23 statements, was completely out of the government by then. He
24 left the Government in 1999. So I do not see how he can
25 sponsor in or authenticate something that he had --

1 THE COURT: That postdated his service there?

2 Ms. Duncan, any --

3 MS. DUNCAN: He was working with the PA government
4 in 2002 is my understanding.

5 THE COURT: Let me do this. Why don't you just try
6 to lay your foundation through him and then offer it. I have
7 heard the arguments, so I don't need to hear them again, and I
8 will just make a ruling at that time.

9 No. 1074. That is that CAIR International final report.

10 MS. DUNCAN: It is the same thing. Mr. Abington is
11 familiar with this project.

12 THE COURT: From what year is that?

13 MS. DUNCAN: 2005, Your Honor.

14 THE COURT: Okay. Same thing with that one, then.
15 Just lay your foundation through him, and then I will make the
16 decision at that time.

17 And then No. 1076.

18 MS. DUNCAN: Same thing, Your Honor.

19 THE COURT: Okay. That is a USAID procurement
20 distribution list. We will handle those three the same way,
21 then.

22 The next one, No. 1102, pictures of Laura Bush at the
23 Dome of the Rock on May 22nd of 2005.

24 MS. DUNCAN: This picture, Your Honor, we expect
25 Mr. Abington to identify the individual on the right side of

1 the photograph as someone he recognizes as an Islamist, and of
2 course recognizes First Lady Bush in this photograph as well.
3 So he has personal knowledge of the event and the individuals
4 pictured.

5 THE COURT: And the relevance of it is what?

6 MS. DUNCAN: That the Government has attempted to
7 portray Islamists as terrorists, as people to be suspicious
8 of, and this shows that the Islamists aren't -- I mean, they
9 are not all terrorists. Some of them are world leaders and
10 people with whom our government deals. So it is offered as
11 sort of a counterweight to that portrayal that the Government
12 has given of what an Islamist is.

13 THE COURT: Mr. Jacks?

14 MR. JACKS: Well, again, Your Honor, the Rules of
15 Evidence seem to have just not been utilized here. This is
16 something apparently downloaded off the internet, and I don't
17 believe that the creation of the internet supplemented the
18 Rules of Evidence in terms of what you have to do to
19 authenticate an exhibit.

20 Also my copy has a bunch of other photographs down the
21 side of the page, which are certainly not relevant. And, you
22 know, we just think that there is no way that, first of all,
23 that he can lay the foundation for this exhibit; and
24 otherwise, it is hearsay to him. He doesn't know about this
25 presumably, unless somebody told him.

1 THE COURT: He stated he was familiar with this
2 particular occurrence? He can identify the individuals?

3 MS. DUNCAN: He can identify the individual and the
4 place where this meeting is taking place.

5 And with respect to the photographs at the right side
6 that Mr. Jacks mentioned, I believe these are just photographs
7 of First Lady Bush's visit to Jerusalem, and we can --

8 THE COURT: Excise those?

9 MS. DUNCAN: Yes, Your Honor.

10 MR. JACKS: Your Honor, assuming the basis of his
11 knowledge is this, that he saw this picture, that is hearsay.
12 He doesn't have independent knowledge of it.

13 THE COURT: We will let you ask him what he knows
14 and I will make a ruling at that time.

15 Then No. 1198 and 1199, those are pictures of graffiti,
16 some walls with graffiti.

17 MS. DUNCAN: Yes, Your Honor. And again
18 Mr. Abington is familiar with this sort of graffiti from
19 Hebron. It appears in Hebron, which has been an area we have
20 discussed in this case.

21 THE COURT: What is that relevant to as far as any
22 issue in this case?

23 MS. DUNCAN: It is actually two points to it. It
24 gives context to some of the speech we have heard in this case
25 that, you know, the jury and people here are not familiar with

1 the way that people in Israel and the West Bank and Gaza talk
2 to each other. And this is illustrative of the way that some
3 Israelis talk to the Palestinians, which is using this
4 graffiti of "Death to Arabs. Kill the Arabs." And these are
5 things that Mr. Abington personally witnessed both with his
6 work for the U.S. government and for -- And also with his work
7 with the PA.

8 THE COURT: Okay. Mr. Jacks?

9 MR. JACKS: There is nothing in this exhibit that
10 says where this picture was taken. She says Hebron, but there
11 is nothing in here that indicates that. There is nothing in
12 here that indicates that an Israeli did this. The only
13 purpose of this exhibit is to inflame the jury. For all we
14 know, this could be in London. It could be anywhere. And the
15 photographer could have done this, stepped back, and took a
16 picture of it. There is no relevance to this.

17 THE COURT: I think that is my concern, regardless
18 of whether it is even, if it is as you stated in Hebron, that
19 is not relevant to any issues in the case. I will sustain the
20 objection as to No. 1198 and 1199.

21 MS. HOLLANDER: Can I ask the witness whether he has
22 seen graffiti of anti-Arab and anti-Jewish, because he is
23 going to talk about both sides.

24 THE COURT: I think phrased like that that is okay,
25 and I think that has been discussed some. I just don't want

1 to get into a lot of detail about that, because that is what
2 we have been trying to avoid. The jury understands there is a
3 conflict there and there is two sides to it, but that is not
4 what this case is about ultimately.

5 MS. HOLLANDER: Right. And I understand. That is
6 why -- There has been a lot of videos, et cetera, very
7 vituperative talk. He knows where these are --

8 THE COURT: But that is focusing on Hamas, which is
9 the issue here, not the greater conflict the
10 Israeli-Palestinian conflict. That is not an issue here other
11 than as a backdrop. But we keep wanting to get into more and
12 more detail of it.

13 So I will let you do that some. The way you phrased it
14 is fine. But I don't want to spend a lot of time on it
15 because it is not relevant.

16 MS. HOLLANDER: Can we just introduce the photos as
17 demonstratives?

18 THE COURT: No. I don't think those are relevant to
19 anything.

20 No. 1335, that is it looks like maps and then some photos
21 about the different closures.

22 MS. DUNCAN: Yes, Your Honor. It is actually a
23 PowerPoint, so those are printouts of the slides of the
24 PowerPoint -- this is a PowerPoint from the United Nations
25 office.

1 THE COURT: Of course I have the same relevance
2 concerns with this. It has been talked about that there are
3 closures and these issues, but I don't know why we need to get
4 into this.

5 MS. DUNCAN: It illustrates his familiarity with the
6 effect of the closures on the economy of the Palestinians and
7 how it creates a tremendous amount of need. And there has
8 been some testimony here about roads, through Doctor Levitt,
9 for example, attempting to minimize that impact on the
10 Palestinians and their economy. And Mr. Abington has personal
11 knowledge of that impact, and these slides will help to
12 illustrate that point that the checkpoints and the road
13 closures do in fact create tremendous need both in the West
14 Bank and Gaza.

15 MR. JACKS: Judge, this is exactly what we have been
16 talking about in terms of the Defense's effort to make this
17 case about the Palestinian-Israeli conflict. This issue is a
18 political issue. It has nothing to do with this case. The
19 Defendants in this case have indicated that they are a
20 legitimate charity, that their purpose is to take care of the
21 needy, and neither the Government -- The Government has not
22 disputed that there are needy people and that there is need in
23 the occupied territories. And the effort to go into this is
24 nothing more than an attempt to shift the blame, if you will,
25 or to attempt to have the jury focus on this greater conflict.

1 When they supply relief to earthquake victims, then don't
2 sit there and talk about that the earthquake was caused by
3 these tectonic plates that shifted and this is what happened
4 and this is why these people need it.

5 Their whole defense has been, "We are not political. We
6 are apolitical. We are only here to provide to the needy."
7 And the effort to shift the focus and to bring in what they
8 contend is the justification or reason for the need is really
9 an effort just to bring in the conflict.

10 I am sure the Court knows that there is another side to
11 this story, and the Government has not attempted to bring in
12 that side of the story because that is what we are seeking to
13 avoid--to make this case about the conflict. And we object
14 not just to this exhibit, but we object to the effort to have
15 him testify about these events. That is not relevant. Their
16 position is that "We are an apolitical organization, just like
17 the Red Cross or any other organization, and it is not an
18 issue with us as far as -- we help Christians. We help
19 non-observant Muslims. We are apolitical." And this is an
20 effort to politicize their case and to in essence have the
21 jury think that, "Well, regardless of what the law may say,
22 both sides have done wrong over there and so we are just not
23 going to find these men guilty."

24 That is not the purpose of this trial. That is not the
25 issue in this trial. And these exhibits and any of that

1 testimony that they would seek to elicit from him is not
2 relevant and is an effort to shift the focus of this case to
3 who is right in this argument who has done what to who.

4 THE COURT: Ms. Duncan?

5 MS. DUNCAN: We are not trying to shift the focus of
6 this case. We are trying to provide a full and accurate
7 picture of the need in both the West Bank and Gaza, and the
8 Government -- Not all of their evidence has been about Hamas.
9 It also has been speech of other Palestinians and other
10 Palestinian groups, and what we are intending to do is just
11 provide a full picture of the speech and the events that took
12 place in this case.

13 It is not to say it is Israel's fault or not the
14 Palestinians' fault. It is just to give that fuller picture,
15 and that is what this exhibit is intended to do.

16 THE COURT: Again I am going to have to disagree. I
17 don't think this is relevant. There is evidence about the
18 closures. That has already come out. There is some evidence
19 about why the Israelis did what they did, but I don't think we
20 need anymore than that because, again, it gets into the
21 broader conflict.

22 So certainly you are entitled to talk about the need. He
23 can talk about the need and why aid was necessary. That is
24 not a problem. That goes to the defense. But I don't want to
25 get into the broader political situation, so I will sustain.

1 MS. HOLLANDER: Your Honor, I have a question about
2 that one, too. I have to have some guidance here.

3 THE COURT: Go ahead.

4 MS. HOLLANDER: I would like -- Doctor Levitt
5 testified that there were 200,000 people in settlements, and
6 we believe that that is wrong. He also testified, much more
7 importantly, that Palestinians can drive on the bypass roads
8 except during times of high security and, therefore, there is
9 not this problem of people being separated from their own
10 lands, and this is -- I mean, Mr. Abington will impeach that,
11 and I do want to ask him that.

12 And my request would be -- The other thing was that
13 Doctor Levitt complained about one of my exhibits, which was
14 No. 1110, because it shows all of the settlements as though
15 they are the same size, the little triangles. I would ask the
16 Court to let us introduce just one page from that, and I can
17 show you which one it is. It is the page that simply shows
18 the three areas and it actually shows the populations.

19 THE COURT: Turn it around so I can see. I may be
20 able to see it. No, I can't see it. I think I see it. Come
21 up a little closer so I can take a look. Let me see that.
22 Actually that is the one I have.

23 MS. HOLLANDER: Just that one I would like to
24 introduce, because that is a more accurate one than the one
25 actually that I have.

1 THE COURT: Show that to Mr. Jacks.

2 MR. JACKS: Is it among the ones you submitted?

3 THE COURT: It is.

4 MS. HOLLANDER: It is part of that.

5 THE COURT: There is a map already in showing
6 settlements?

7 MS. HOLLANDER: Yes. It is 110, and I just think
8 this one is more accurate.

9 THE COURT: Okay.

10 MR. JACKS: Your Honor, they are the ones that
11 brought it up with Doctor Levitt, so it is bootstrapping.
12 They bring it up with him and then they are using that to
13 justify bringing in this other evidence. So they shouldn't
14 have brought it up in the first place because it is not a
15 relevant issue.

16 But once they brought it up--the Government didn't bring
17 it out, they did--so now they are using their own -- the fact
18 that they brought it up themselves during cross examination to
19 justify bringing it in during Mr. Abington, and it is not
20 proper. Just the fact that they were successful or they asked
21 Doctor Levitt about it and he gave them an answer doesn't mean
22 they now get to contradict him or attempt to contradict him.
23 They shouldn't have asked him that question in the first
24 place.

25 THE COURT: I don't know if there was an objection,

1 counsel, at the time, but it is in so I am going to let them
2 put this map in. It is related to that other one. I think
3 you can get that one in, assuming Mr. Abington can recognize
4 it.

5 MR. JACKS: Your Honor, for the record we objected
6 before trial, so, I mean, we had objected to them going into
7 that.

8 THE COURT: You objected generally, and then I asked
9 you for some specifics and you couldn't give me any specifics
10 at that time, so we went along trying the case. And sometimes
11 you objected and sometimes you didn't. You got some things in
12 and they put some things in. So there is some evidence in. I
13 don't know whether you objected to this in particular or not.

14 And I know you didn't object to a lot of issues because
15 you were also discussing them. Maybe this one you did. I
16 don't remember. But the map is in, so I think they can put
17 this other one in if they want to draw a contrast.

18 MR. JACKS: I have a question about how much he will
19 be able to talk about it, then, because it would seem that
20 there is no value in this evidence if he doesn't explain --

21 THE COURT: She says she wants to use it to impeach
22 Doctor Levitt's testimony, so we will let them go there. And
23 if you have objections to anything beyond that, why don't you
24 object at the time.

25 I don't want to get into everything she is going to ask

1 because we just don't need to do that. You just object if you
2 have an issue that you think there is an issue that goes
3 beyond the scope of what we are dealing with here.

4 MS. HOLLANDER: Your Honor, it is Defendants
5 No. 1423. I renamed just the individual one as No. 1423.

6 THE COURT: Okay.

7 Any other matters before the jury comes in?

8 MS. DUNCAN: Your Honor, did we talk about Defense
9 Exhibit No. 364?

10 THE COURT: I believe we did. Yes. That is that
11 photo, and all the photos No. 364, 532, and then the letters,
12 and then 1102, you are going to lay a foundation and I will
13 make a ruling at that time.

14 MS. DUNCAN: Thank you, Your Honor.

15 MS. HOLLANDER: There is one more. I don't know if
16 the Government maybe doesn't have an objection to. It wasn't
17 on that list. I sent it to Mr. Jacks later, but in the email
18 he may have missed it.

19 MS. SHAPIRO: We also filed objections to the
20 exhibits that John Benthall intends to sponsor, and you may
21 not have seen those yet.

22 THE COURT: I haven't.

23 MS. SHAPIRO: Later in the day before he gets on,
24 just so you know, they are out there.

25 THE COURT: I will take a look at them.

1 Are we ready for the jury, then.

2 MS. HOLLANDER: I need just a minute. I can do it
3 while the jury comes in to explain some of these things to --

4 THE COURT: Why don't you go ahead and take that
5 minute to make sure everybody is on the same page.

6 MS. HOLLANDER: Thank you, Your Honor.

7 THE COURT: Go ahead and bring the jury in.

8 (Whereupon, the jury entered the courtroom.)

9 THE COURT: Ladies and gentlemen of the jury, good
10 morning. We are ready to proceed.

11 Ms. Hollander?

12 MS. HOLLANDER: Thank you, Your Honor.

13 Q. (BY MS. HOLLANDER) Good morning.

14 A. Good morning.

15 Q. We have just about finished the background. I just
16 wanted to finish one other question that I didn't get to
17 yesterday.

18 Are you being paid for your testimony today?

19 A. No, I am not.

20 Q. Now, I want to draw your attention primarily to the time
21 first when you were working as Consul General representing the
22 United States. And to some extent after that, based on your
23 personal knowledge, what you know during those years -- And I
24 want to start by way of background with the years '93 to '97
25 when you represented the United States government. During

1 that time did you have an office in Jerusalem?

2 A. I did, the American consulate was located with offices in
3 both East Jerusalem and West Jerusalem.

4 Q. And can you explain why we had two offices in Jerusalem?

5 A. It really goes back to pre 1967 War, because the
6 Jordanians were in control of East Jerusalem and the West
7 Bank, and the Israelis of course were in control of West
8 Jerusalem. So up until that point we maintained offices, the
9 United States government, in both East and West Jerusalem.

10 After the '67 War, Israel declared the unilateral
11 unification of the city and annexed a large amount of land in
12 East Jerusalem. The United States never recognized that
13 annexation, but kept its offices in both East and West
14 Jerusalem.

15 Q. And did you work in both or in just one of them?

16 A. Essentially I worked in West Jerusalem, because that is
17 where the political offices were, that is where our
18 communications were, and the office in East Jerusalem was a
19 consular office for the issuance of visas and passports, and
20 also the United States Information Agency head offices there.
21 When Secretaries of State, like Warren Christopher or
22 Madeleine Albright would come to Jerusalem and meet with
23 Palestinians, frequently we would meet in the offices of East
24 Jerusalem.

25 Q. Now, during the time you represented the United States

1 government in Jerusalem, did you receive regular briefings
2 from the United States government?

3 A. I did.

4 Q. Were they on -- How often?

5 A. On a daily basis.

6 Q. And as part of those briefings, did you receive any
7 guidance from the United States government regarding Hamas?

8 A. Yes, on occasion.

9 Q. Were you told to interact with Hamas or not interact with
10 Hamas?

11 A. There were very strict instructions issued by the
12 Department of State that U.S. government officials, no matter
13 what agency, whether it was the Commerce Department or the
14 State Department, or whoever, were not to have any dealings
15 with Hamas officials. And those were standing instructions,
16 which are valid until today.

17 Q. Did the United States government have any information
18 sharing relationships with foreign governments?

19 A. Yes.

20 Q. And did the United States government have any information
21 sharing relationships with Israel?

22 A. It does.

23 Q. And one more on that subject. Does the United States
24 government have information sharing relationships with the
25 Palestinian government in the West Bank, I guess the PA before

1 2006?

2 A. That is correct. Yes, it does.

3 Q. And now, as a United States representative, did you
4 personally consider all the information from the Israeli
5 government to be reliable?

6 A. No. I think some was, but others was of questionable
7 reliability.

8 Q. Let me turn to a different subject. Do you know what a
9 zakat committee is?

10 A. I do.

11 Q. Is zakat an Arabic word?

12 A. Yes, it is.

13 Q. And do you know what it means?

14 A. It is the giving of alms. It is one of the five pillars
15 of Islam.

16 Q. Do you -- what is your understanding of the role of a
17 zakat committee in general in the Muslim countries?

18 A. Once a year during the holy month of Ramadan when people
19 fast, again one of the five pillars of Islam, people give a
20 percentage of their earnings as charity, and that charity is
21 to be shared with the less fortunate. Sometimes it goes to a
22 zakat committee. Sometimes it can be done on an individual
23 basis. If your next door neighbor has a difficult time, you
24 may go give him some food or clothing or so forth. But quite
25 often people will contribute cash, in kind, food, clothing, et

1 cetera, to a zakat committee to distribute to the less
2 fortunate.

3 Q. And I know you have worked in the Middle East. Have you
4 encountered zakat committees in other Muslim countries?

5 A. I have. I have in Pakistan where I served for four
6 years, I encountered them in Syria, as well as Tunisia.

7 Q. And are you aware of any of the zakat committees, that
8 there are zakat committees in the West Bank and Gaza also?

9 A. Yes, I am.

10 Q. Okay. Have you ever met with any members of the zakat
11 committees in the course of your duties?

12 A. I did.

13 Q. Now, do you know from your experience working there,
14 particularly let's focus on the West Bank and Gaza, how the
15 zakat committees function?

16 A. Generally people volunteer to become a member of the
17 zakat committee. It is a very informal arrangement. They may
18 say, "I volunteer to be on this committee." It is considered
19 to be an apolitical form of service. And they are sort of an
20 informal consensus that is reached within the area where the
21 zakat committees are put together as to whether this is a good
22 person or not. Generally they are considered, the people who
23 serve, to be pious, religious people, interested in doing good
24 works.

25 Q. And I am going to get into some specifics here in a

1 minute, but in the course of your duties representing the
2 United States government, and later when you were working for
3 the Palestinian government, was one of your duties meeting
4 with people in Palestine?

5 A. Yes.

6 Q. And when you were working for the United States
7 government as Consul General, why was that considered one of
8 your duties?

9 A. The State Department, the White House, other branches of
10 the U.S. government, considered it crucial to understand the
11 dynamics of the society, what people were concerned about. In
12 our case, we were trying to promote a process that we hope
13 would lead to peace between Israelis and Palestinians, and so
14 both I, as well as the officers who worked for me in the
15 consulate, we were constantly out meeting with Palestinians,
16 meeting with members of NGOs, including zakat committees.

17 Q. Tell us again what an NGO is.

18 A. I am sorry. A non-governmental organization.

19 Q. Do you mean like charities?

20 A. Charities. But they can also be politicized as well, and
21 to try to understand what the attitudes of the population was.
22 And we would go back and we would write analyses and telegrams
23 reporting to Washington of our impressions. And that was a
24 very important part of the policy-making process in
25 Washington.

1 People would read these telegrams and they would say,
2 "Well, this is working. This approach of the U.S. government
3 doesn't seem to be working. Maybe we should adjust it." So
4 the reports that -- It wasn't just the consulate. This is the
5 duty of any American diplomatic establishment abroad is to
6 talk to the people, talk to government officials, et cetera,
7 and try to assess the thinking of people on crucial issues how
8 they react to U.S. policy, et cetera.

9 Q. And so -- I believe I understand you correctly. Your
10 role in Jerusalem was not really different than the role of
11 the Chief of Mission in any other country in that sense.

12 A. No, absolutely not.

13 Q. Okay. Now, did you ever -- When you talked to people,
14 you personally, did you just--not asking you now what they
15 said--but just did you talk to just government officials or
16 people in cafes or, you know --

17 A. I would talk to a wide range of people, as would the
18 officers working for me. We would talk to Palestinian
19 officials. We had business to do with them, directions from
20 Washington requiring us to go in and try to persuade them of a
21 certain course of action, to agree to something. In the
22 process of negotiations, I dealt with Palestinian officials to
23 try to move them forward in the negotiating process.

24 I would meet with businessmen, you know, "How is this
25 process working for you?" Because the Israelis and the

1 Palestinians had negotiated economic protocols which were
2 supposed to improve the business environment in which
3 Palestinians operated. So I would talk to them.

4 I would talk to religious figures, both Christian and
5 Muslim, to see how they looked upon this process;
6 intellectuals at universities, because they were important
7 leaders of public opinion; and sometimes just sitting in a
8 cafe drinking a cup of coffee and talking with the guy next to
9 me that has a small shop or something like that--"is your life
10 getting any better? Do you think this process is going to
11 work? Do you support it?"

12 So we talked to a very, very wide range of Palestinians,
13 from the very highest down to maybe a guy driving a taxi cab.

14 Q. Were these conversations in English or Arabic?

15 A. They would be in both.

16 Q. Okay. And did you travel around the area?

17 A. Yes. I traveled all over the West Bank. I traveled to
18 Gaza. When Yasser Arafat was headquartered in Gaza, I would
19 go there sometimes five or six times a week to meet with him.

20 Q. Now, you mentioned Yasser Arafat was in Gaza. During
21 what -- Remind us again who Yasser Arafat is. We have had a
22 lot of names in this case.

23 A. Yasser Arafat was the chairman of the Palestine
24 Liberation Organization, which is an umbrella group of various
25 Palestinian organizations. He was also the chairman of the

1 Fatah, which is the primary secular Palestinian political
2 organization. And as such, as chairman of the Palestine
3 Liberation Organization, he is the person that signed the Oslo
4 Agreement on September 13, 1993 on the White House lawn with
5 Prime Minister Yitzhak Rabin of Israel with President Clinton
6 overseeing that process. And this is a process of mutual
7 recognition between the government of Israel and the Palestine
8 Liberation Organization.

9 Q. Let me stop you there. Now, his office was for a time in
10 Gaza. Is that correct?

11 A. As I said yesterday, there were two agreements that were
12 negotiated. One was in 1994 which was the Gaza Jericho
13 agreement, and that essentially meant that the only areas that
14 Arafat could operate in were Gaza and Jericho, which is a very
15 small relatively isolated town in the West Bank on the Jordan
16 River.

17 Q. Let me stop you a minute and let's find Jericho. Can you
18 just point out to the jury just where Jericho is?

19 A. I suppose all of you know Joshua and the battle of
20 Jericho. That is where it is. And the walls are still there,
21 believe it or not.

22 Q. Okay. Thank you.

23 So I interrupted you. You said that Yasser Arafat had
24 authority over Gaza and the city of Jericho.

25 A. Until the agreement that was negotiated in September of

1 1995, which was a follow-on agreement between Israel and the
2 Palestine Liberation Organization. At that point the Israelis
3 withdrew from about 18 or 19 percent of the West Bank and it
4 was under the authority of the Palestinian Authority. Arafat
5 moved his office to the city of Ramallah, which is just a
6 little bit north of Jerusalem, and he would divide his time
7 between Gaza and Ramallah, and travel around -- He would
8 travel around the West Bank as well.

9 Q. So you would do that also during that time?

10 A. Yes. I would follow him around.

11 Q. And -- Okay. Let me go back a little bit to the zakat
12 committees. I believe I asked you whether you visited any of
13 them. Do you remember any of them in particular that you
14 visited?

15 A. I visited zakat committees in Hebron, I think in
16 Bethlehem, in Ramallah, Jenin, Tulkarem, Qalqilya, and in Gaza
17 City.

18 Q. Did the United States government, when you were
19 representing our government, have any policy regarding the
20 zakat committees that you were required to follow?

21 A. Zakat committees were considered by the -- particularly
22 by the Agency for International Development, which was charged
23 with doing economic assistance programs for the
24 Palestinians --

25 MR. JACKS: Your Honor, I am going to object. It

1 seems to be non-responsive and a narrative.

2 MS. HOLLANDER: That is fine, Your Honor. We will
3 get into that.

4 Q. (BY MS. HOLLANDER) My question is just a simple one,
5 which was, was there any particular kind of policy regarding
6 the zakat committees. If there wasn't --

7 A. No, there wasn't.

8 Q. Were you ever told -- And we are going to get into some
9 more detail, but first, were you ever told in any United
10 States government briefing that any of the zakat committees at
11 issue in this case were actually controlled by Hamas?

12 A. I was not.

13 Q. Okay. Now, -- And because I am going to ask you about a
14 broad range of time, after 1999 when you left your work with
15 the foreign service State Department and you were working for
16 the Palestinian Authority, did you still have communications
17 with the United States government?

18 A. I did.

19 Q. Okay. And did you then deal with any of the Palestinian
20 policy makers, the president or the prime minister?

21 A. I dealt with them on almost a daily basis.

22 Q. And who was the president of the Palestinian Authority
23 who you dealt with?

24 A. Well, it was Yasser Arafat until his death in 2004, and
25 then it was Mahmoud Abbas, who was elected in January of 2005.

1 Q. And is he still the president?

2 A. He is still the president of the Palestinian Authority.

3 Q. And he is not Hamas?

4 A. No.

5 Q. Okay. Now, what about the prime minister? Are there two
6 prime ministers?

7 A. Well, as a result of the elections in 2006, Hamas formed
8 a government and the United States government, the U.S.
9 officials refused to deal with that government. There was a
10 break between Fatah, the PLO, and Hamas a little over a year
11 ago, with Hamas in essence taking over Gaza but the Palestine
12 Liberation Organization being in charge of the West Bank. And
13 they formed a government with -- and named a prime minister, a
14 man named Salam Fayyad.

15 Q. And are you familiar with Salam Fayyad?

16 A. I have known him for many years.

17 Q. Let me stop you. Is he -- He is not Hamas?

18 A. He is not. He is in essence I would say he is an
19 independent. He is not a member of Fatah or Yasser Arafat's
20 wing or Mahmoud Abbas' wing, and he is certainly not a member
21 of Hamas.

22 Q. Does he have any connection to the United States or to
23 Texas?

24 A. He received his Ph.D. from the University of Texas. A
25 couple of weeks ago the Alumni Association at U.T., The Texas

1 Exes named him one of U.T.'s distinguished alumni, and he was
2 in Austin to receive that award.

3 Q. Now, you have mentioned Fatah, and I don't know whether
4 you know this or not, but if you do, do you know what -- We
5 have heard what Hamas stands for in Arabic. Do you know what
6 Fatah stands for the Arabic?

7 A. It is Harakat Tahrir Filastini, the Palestinian
8 Liberation Movement.

9 Q. And the word Harakat, I believe is also --

10 A. Harakat means movement. Fatah is referred by
11 Palestinians, by many Palestinians as Harakat, the movement.
12 And people also refer to Hamas as the movement. So you have
13 to know the context where it is used.

14 Q. Because the word is in both?

15 A. Yes, it is.

16 Q. Harakat. Now, you mentioned United States Agency for
17 International Development, USAID. Is that a United States
18 government organization?

19 A. Yes, it is.

20 Q. Okay. And because I am going to ask you some questions
21 about that, can you tell us what that organization does?

22 A. It is charged by the Executive Branch with developing
23 economic assistance programs in countries where we want to try
24 to influence the policies of that country. It has a mandate
25 to operate all over the world, but particularly in less

1 developed parts of the world.

2 Q. Is this taxpayer money?

3 A. It is. It is money that is appropriated by Congress.

4 Q. And when you worked in the United States government as
5 Consul General between '93 and '97, did you work with USAID?

6 A. On a daily basis. They had staff members at the
7 consulate.

8 Q. And then afterwards were you also familiar with USAID
9 projects?

10 A. Yes. I would go and meet with USAID officials and take
11 Palestinians to meet with them.

12 Q. Up until?

13 A. The end of 2006.

14 Q. Do you know -- And I am going to ask you some specifics,
15 but just in general first, do you know whether USAID provided
16 funds directly or indirectly to any of the zakat committees in
17 the West Bank?

18 A. They did.

19 MR. JACKS: Your Honor, I am going to object, unless
20 there is personal knowledge and not that somebody told him or
21 he read it somewhere.

22 THE COURT: I think the question calls for yes or
23 no. "Did you know" and the answer was yes. You can follow up
24 from there how he knew.

25 MS. HOLLANDER: I am sorry. I didn't hear you.

1 THE COURT: The basis of his knowledge.

2 Q. (BY MS. HOLLANDER) Did you work with the USAID?

3 A. I did.

4 Q. Did you ever go to zakat committees with representatives
5 of the USAID?

6 A. I went to signing ceremonies where we would sign a
7 project, in this case in Nablus with the zakat with USAID.

8 Q. So was this something that in your job you were involved
9 with them?

10 A. Yes.

11 Q. Now, we have seen -- Let me just show you, I am going to
12 be asking you some questions about a document that is in
13 evidence as Defendants' Exhibit No. 102, and this involves a
14 place called the al-Razi Hospital. Do you know from personal
15 experience, the work you did, whether the USAID provided
16 medical supplies to the al-Razi Hospital in 2002?

17 A. Yes, I know they did.

18 Q. Would that have been consistent with United States policy
19 as you understood it?

20 A. Yes.

21 Q. Now, would it have been consistent with U.S. policy for
22 USAID to provide funds to any Hamas organization?

23 A. No, that would be against U.S. policy.

24 Q. Okay. Now, are you personally familiar with the al-Razi
25 Hospital?

1 A. I visited it in the past.

2 Q. Okay. And is that run by the Jenin zakat committee?

3 A. Yes.

4 Q. Okay. How are you personally familiar with that
5 hospital?

6 A. During one of the trips I took to Jenin when I was the
7 Consul General, I went around to various -- I met with
8 officials, Palestinian officials, I visited hospitals and so
9 forth, I visited sort of the general hospital which was under
10 the auspices of the Israeli military, and I also visited
11 al-Razi Hospital, which was a relatively new hospital that had
12 been built and staffed I think within a short period, within a
13 year or so before I went there.

14 I might say I was interested in medical care, because
15 when I was in college --

16 MR. JACKS: I object, Your Honor; non-responsive.

17 MS. HOLLANDER: I will ask the question.

18 Q. (BY MS. HOLLANDER) Did you have some particular interest
19 in medical care?

20 A. I did. I wanted -- I mean, it was something that was
21 very important to Palestinians to have adequate medical care,
22 and they did not have adequate medical care in many cases.

23 Q. Did you have any particular expertise or knowledge that
24 would make it for you to tour a hospital?

25 A. I worked five years as a surgical technician in college,

1 and so I have been in many operating rooms worked with many,
2 many doctors over the years, and so I had some familiarity
3 with medical facilities.

4 Q. And what was your impression of this hospital?

5 A. It was very clean, it had new and modern equipment, it
6 was a very good hospital, and it was one that Palestinians
7 were using on a regular basis, in contrast to the hospital
8 that the Israeli military ran.

9 Q. And why were they not using -- Palestinians not going to
10 the Israeli military hospital?

11 A. They were dirty, they were unsanitary, the medical
12 equipment was antiquated, and the care was very poor.

13 Q. Now, why is there an Israeli military hospital in Jenin?
14 You call it a military hospital.

15 A. It was administered by the military.

16 Q. By the Israeli military?

17 A. An civilian Palestinian hospital administered by the
18 Israeli military, because at that point it was still under
19 Israeli occupation, and the Israeli military government for
20 the West Bank was responsible for overseeing medical care for
21 Palestinians.

22 Q. If you know, do you know whether Israel ever interfered
23 with functions of the al-Razi Hospital during the time you
24 were there?

25 MR. JACKS: Your Honor, I am going to object to this

1 as irrelevant. Again, it goes to the issue that we spoke
2 about earlier. It is not --

3 THE COURT: I understand. What is the relevance of
4 that?

5 MS. HOLLANDER: I am just trying to ascertain the
6 control of this hospital, Your Honor. I can approach and
7 explain it.

8 THE COURT: Go ahead and ask your question. Go
9 ahead.

10 Q. (BY MS. HOLLANDER) Do you know whether Israel ever
11 interfered with the functioning of the al-Razi Hospital during
12 the time you were there?

13 A. Not when I was the Consul General, but on later
14 occasions.

15 Q. Did you ever learn from the United States government in
16 the course of your work as a U.S. official in Jenin -- I am
17 sorry. Let me rephrase that. Did you ever learn from the
18 U.S. government that you were not to deal with the al-Razi
19 Hospital?

20 MR. JACKS: Your Honor, could we have a time frame
21 as far as when she is referring to?

22 MS. HOLLANDER: Sure.

23 Q. (BY MS. HOLLANDER) Did you ever learn from the U.S.
24 government at any time during the time you were in Jerusalem,
25 either working for the U.S. government or working for the PA,

1 that you were not to deal with this hospital because it was
2 controlled by Hamas?

3 A. No, never.

4 Q. Now, are you aware -- And I will ask you some specifics,
5 but in general first, are you aware of any specific projects
6 of the USAID in the West Bank?

7 A. Yes, I am.

8 Q. Okay. Are you familiar with an organization called CARE,
9 C-A-R-E?

10 A. I am.

11 Q. What is that organization?

12 A. CARE is an American contractor that does projects for
13 AID. AID does not implement projects on the ground
14 themselves, but they use various contractors to do this. CARE
15 has had a presence on the West Bank for maybe the last 30 or
16 40 years, and continues to do projects there.

17 Q. And are you aware of any particular projects that CARE
18 did with USAID?

19 A. There is a multi-year project called the Emergency
20 Medical Assistance Program, which I think --

21 MR. JACKS: Your Honor, excuse me. I request again
22 a clarification as to time and basis of knowledge.

23 THE COURT: I think he has established a basis of
24 knowledge. Do you want to clarify the time?

25 Q. (BY MS. HOLLANDER) Okay. Do you recall the years, or is

1 there anything --

2 A. It is from 2002 to 2008.

3 Q. Thank you. Okay. Go ahead and answer the question.

4 A. It is a multi-year program aimed at improving medical
5 services in the West Bank by providing medical supplies and
6 equipment to various clinics run by Palestinians in the West
7 Bank. It is about a \$30 million project.

8 Q. And does USAID actually have people who work for the
9 United States that are on the ground in the West Bank?

10 A. Yes, they do.

11 Q. Do they have any Arabic speakers? Do you know?

12 A. Yes, they do. They have -- There are people assigned to
13 the embassy in Tel Aviv, there are people assigned to the
14 consulate in Jerusalem, and many of these aid contractors,
15 such as CARE, are in Ramallah and elsewhere around the West
16 Bank as they implement the programs that are funded by the
17 Agency for International Development.

18 Q. Have you actually seen documents that USAID and CARE have
19 created to discuss the Emergency Medical Assistance Program?

20 A. Yes, I have.

21 MS. HOLLANDER: May I approach, Your Honor?

22 THE COURT: Yes.

23 Q. (BY MS. HOLLANDER) I have shown you what has been marked
24 I believe as Defendants' No. 1074 and 1076. And without
25 describing those to us yet because they have not been admitted

1 into evidence, have you seen -- Are you familiar -- Is that
2 the project you were talking about?

3 A. Yes, it is.

4 Q. And have you seen documents like this?

5 A. I have.

6 Q. Do these documents -- Can you identify where they come
7 from?

8 A. They are prepared by the staff in this case of CARE to
9 the Agency for International Development describing the
10 implementation of the programs which AID funded, where they
11 went and so forth.

12 MS. HOLLANDER: At this time I move the admission of
13 Defendants' No. 1074 and 1076.

14 THE COURT: Mr. Jacks?

15 MR. JACKS: May I take the witness on voir dire,
16 Your Honor?

17 THE COURT: Sure. Go ahead.

18 Q. (BY MR. JACKS) Sir, you said you have seen these
19 exhibits before?

20 A. I said I have seen documents like this before.

21 Q. But not these specific exhibits? Not these specific
22 ones?

23 A. No.

24 Q. So until now or you were being prepared as a witness in
25 this case, that is when you first saw these exact documents?

1 A. I am sorry? Would you --

2 Q. The documents that are in front of you, when is the first
3 time you laid eyes on them?

4 A. I saw them in my meeting with Ms. Hollander.

5 Q. That would have been a few days ago or --

6 A. Yes.

7 Q. -- weeks? Okay. So other than the fact that they are in
8 front of you and what they may say, that is the extent of what
9 you know about those documents?

10 A. These specific ones. I said I have seen similar
11 documents by CARE in the past.

12 MR. JACKS: Your Honor, we object.

13 THE COURT: Do you want to ask some further
14 questions?

15 MS. HOLLANDER: Yes.

16 Q. (BY MS. HOLLANDER) Do you know whether USAID generally
17 is required to set forth the activities of that office? In
18 other words, do these documents show the activities of USAID?

19 A. They show the activities of the contractor that USAID has
20 worked with to implement a project on the ground.

21 Q. Do they also have, one of them have the USAID logo on it?

22 A. That is correct.

23 Q. And does the other one have a marking on it, which you
24 may or may not be able to see that it comes from--it will be I
25 think a very small little number--that it comes from the

1 USAID --

2 A. Well, I think the second document is a USAID document.

3 THE COURT: Which number is that?

4 THE WITNESS: That is No. 1076, Your Honor.

5 THE COURT: All right.

6 Q. (BY MS. HOLLANDER) The first document, is that a
7 document that is your understanding that USAID would --

8 MR. JACKS: Object to leading, Your Honor.

9 THE COURT: Rephrase.

10 Q. (BY MS. HOLLANDER) Do you know whether USAID would have
11 documents and put together documents with the charities that
12 it works with?

13 A. Yes. I mean, this is not so much a charity. This is an
14 aid contractor, and this is an implementation report from CARE
15 to AID.

16 MR. JACKS: Your Honor, objection; non-responsive.

17 THE COURT: Overruled. Go ahead.

18 MR. JACKS: She asked "Do you know."

19 THE COURT: I made my ruling, counsel.

20 Q. (BY MS. HOLLANDER) Do you know whether these
21 documents -- Do you know that these projects actually were
22 carried out?

23 A. Yes, I do.

24 MS. HOLLANDER: Your Honor, I think we have met the
25 qualifications under 803(8)(a). These are documents that show

1 the activities of the office of agency.

2 THE COURT: I don't need to hear argument. Same
3 objections, Mr. Jacks?

4 MR. JACKS: Yes, Your Honor.

5 THE COURT: I will overrule those objections and No.
6 1074 and 1076 are admitted.

7 MS. HOLLANDER: Thank you, Your Honor.

8 Q. (BY MS. HOLLANDER) Let me ask you first about No. 1074.
9 Can you see the date on this? I don't know if it is as fuzzy
10 there as it is here.

11 A. It is a little fuzzy. It says December something 2004, I
12 believe.

13 Q. December 22nd, 2004?

14 A. Yeah.

15 Q. Now, this logo where my finger is, what is that?

16 A. That is the symbol of the Agency for International
17 Development.

18 Q. And the title of this document?

19 A. "Final implementation report, Emergency Medical
20 Assistance Program," and then the contract number with AID.

21 Q. Now, what it says here, it may be difficult for you to
22 read, is the project had six specific objectives.

23 A. Yes.

24 Q. Can you see that?

25 A. Yes, I do.

1 Q. Can you just read what the six objectives were? Can you
2 read that there, or do you need to see a copy?

3 A. I can read it. The first objective, "Develop a sentinel
4 surveillance system capable of detecting early changes in the
5 health status of vulnerable Palestinian Committees.

6 "Provide emergency medical equipment and supplies to
7 local and regional health facilities to meet increased demands
8 for emergency services.

9 "Provide technical assistance for the development of
10 sustainable educational programs and trauma management and
11 emergency medical, and to develop the capacity of referral
12 centers in the West Bank and Gaza.

13 "Provide temporary financial assistance to Palestinian
14 NGOs currently offering emergency care rehabilitation
15 services" --

16 THE COURT: Slow up a little bit when you are
17 reading so the court reporter can keep up with you.

18 THE WITNESS: I am sorry, Your Honor.

19 "...to physically impaired Palestinians.

20 "Conduct a rapid nutritional assessment.

21 "Conduct a food security assessment and nutritional
22 surveillance."

23 Q. (BY MS. HOLLANDER) And was it important to the United
24 States that the Palestinians see that this aid came from the
25 United States?

1 A. Yes, very much so.

2 Q. So this is a picture here that says "contents of medical
3 kits for NGO clinics." Have you seen equipment in NGOs and in
4 clinics that have logos like that?

5 A. Yes, I have.

6 Q. I am not going to go through this whole document. The
7 jury will have it. But I want to point out one specific
8 thing. On this page there is a reference to -- it says Johns
9 Hopkins University was subcontracted by CARE for emergency
10 training and trauma. Are you familiar with the fact that
11 something starts out with USAID money and then gets
12 subcontracted like that? Is that unusual or usual?

13 A. It is a normal practice.

14 Q. There is a final budget here for that part of it in 2004.
15 Can you read that number, the final number?

16 A. The number on the left?

17 Q. Yes.

18 A. Yes. It is \$12,454,847.

19 Q. And then it also has something called the CA budget. I
20 am not sure what that is. But then it has a total right here.

21 A. Yeah.

22 Q. \$582,627.

23 A. I see that, yes.

24 Q. And finally one other page from that document. There
25 actually are several pages of where the money went, but I just

1 want to show you one.

2 MR. JACKS: Your Honor, I would ask to eliminate the
3 narrative by counsel and just have her ask a question rather
4 than making this narrative.

5 THE COURT: Okay. Counsel, if you would just ask a
6 question.

7 MS. HOLLANDER: Yes, Your Honor.

8 Q. (BY MS. HOLLANDER) I am going to make this bigger, but
9 can you tell what this is, just what it is?

10 A. It appears to be a spreadsheet on where the money under
11 this grant was disbursed.

12 Q. Do you see the one that is the fourth from the bottom?

13 A. I do.

14 Q. And what is that?

15 A. It is the Qalqilya zakat committee.

16 Q. And what is the amount that the zakat committee received
17 from this program?

18 A. It looks like it is \$47,719.

19 Q. Now, I would also like to show you Defendants' Exhibit
20 No. 1076, which you also said was part of this. Can you see
21 the date of this?

22 A. March 24, 2005.

23 Q. And what were the dates that the USAID has this emergency
24 program?

25 A. It is a three-phase program which covers the years from

1 2002 until 2008.

2 Q. And what does it say in this part?

3 A. It says "medical disposables," and that is medical
4 equipment that has been delivered, and it lists the places
5 where that equipment was delivered.

6 Q. And what is the first one?

7 A. It is the zakat committee in Nablus.

8 Q. And in 2005 how much did this zakat in Nablus receive for
9 this portion of the program?

10 A. \$6,678 in equipment.

11 Q. Was that what we refer to as in kind?

12 A. Yes.

13 Q. Now, do you know whether USAID ever provided any
14 emergency relief to the Nablus zakat committee earlier than
15 that in 2002?

16 A. You mean before 2002 or in 2002?

17 Q. In 2002.

18 A. In 2002 they provided assistance after Defensive Shield,
19 I believe.

20 MS. HOLLANDER: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q. (BY MS. HOLLANDER) I am showing you what has been marked
23 as Defendants' Exhibit No. 1071 which is not in evidence yet,
24 so looking at the date of that, is that after Defensive
25 Shield?

1 A. Yes.

2 Q. And are you familiar with that particular service
3 that -- Do you know whether that is USAID?

4 A. Yes, this is a USAID email.

5 Q. And are you familiar with that provision of service that
6 is -- I believe it is highlighted there?

7 A. Not that specific one, but in general during that period
8 assistance was provided.

9 Q. Is that the same time period as the aid to Jenin at the
10 al-Razi Hospital?

11 A. That was April 2002. This is May 2002.

12 Q. Was there a reason in particular that USAID had to
13 provide emergency relief at that time?

14 MR. JACKS: Objection, Your Honor; calls for
15 hearsay.

16 THE COURT: He may answer that if he knows.

17 THE WITNESS: There was a tremendous amount of
18 disruption of medical services, of ability of Palestinians to
19 get food. After Operation Defensive Shield it was basically
20 chaos in the West Bank for Palestinians. It was in essence
21 under military occupation. And AID provided emergency medical
22 assistance to Palestinian health facilities, and it provided
23 emergency food packets to feed Palestinians.

24 Q. (BY MS. HOLLANDER) And are you aware of whether that
25 included the Nablus zakat committee?

1 A. Yes.

2 MS. HOLLANDER: Your Honor, I move the admission of
3 No. 1071.

4 THE COURT: Objection?

5 MR. JACKS: Hearsay, Your Honor.

6 THE COURT: I don't think he has established he has
7 a specific knowledge of this one. I will sustain this one,
8 counsel.

9 MS. HOLLANDER: Okay, Your Honor.

10 Q. (BY MS. HOLLANDER) Now, you said you went to signing
11 ceremonies. What are those?

12 A. The United States government wanted Palestinians to see
13 that programs were being implemented to help them. Sometimes
14 it would be at a hospital. Sometimes it would be for water
15 projects. Sometimes it would be equipment.

16 And what it would involve would be American officials
17 would be there with Palestinian officials, and generally you
18 would sign an agreement with the Palestinians for that
19 specific project. And we would invite media to it and various
20 other people so that it would be publicized in the local press
21 and the local television.

22 Q. And did you do this with USAID during the years that you
23 were Consul General, kind of going back down to '93 to '97?

24 A. Yes, I did.

25 Q. And did you do it at any of these zakat committees?

1 A. I did one in Nablus.

2 Q. At the Nablus zakat committee?

3 A. Yes.

4 Q. Do you know what year that was, approximately?

5 A. I believe it was 1995.

6 Q. Now, slightly changing the subject, in the Palestinian
7 government, are there specific religious authorities who are
8 in the government?

9 A. Yes.

10 Q. Okay. This is somewhat different than the United States.
11 Can you explain why there are religious authorities in the
12 government?

13 A. It is really common throughout the Muslim world. In the
14 case of the Palestinian Authority, there is something called
15 the Ministry of Waqf, W-A-Q-F, and in essence that means
16 religious endowments. And there may be secular people in it,
17 but also religious people. And they are charged with
18 overseeing and auditing zakat committees. They are charged
19 with appointing the religious figures in the mosque, and they
20 are charged with overseeing religious properties that people
21 who have died, have willed, that these properties be
22 maintained by the Ministry of Waqf for the benefit of the
23 Palestinian people.

24 Q. Now, we have also heard this word as awqaf?

25 A. Awqaf is the plural of waqf. Arabic is a very, very

1 complicated language, but waqf is the singular; awqaf is the
2 plural.

3 Q. So if we have heard them, they are basically the same
4 thing?

5 A. They are essentially the same thing.

6 Q. Now, before I forget, on this subject while you were
7 working as a representative of the United States government in
8 '93 to '97, did you ever hear anything about the Holy Land
9 Foundation?

10 A. Yes, I did.

11 Q. And what did you know about its reputation?

12 A. I knew that it was a very large Palestinian-American
13 charitable organization, and it had a good reputation for
14 implementation of projects, for delivering the most bang for
15 the buck--in other words, low overhead costs, and projects of
16 assistance that went to needy Palestinians.

17 Q. Was it just one of many organizations like that that you
18 heard about?

19 A. Yes.

20 Q. Did you also interact as part of your job with the United
21 Nations?

22 A. I did.

23 Q. And why would it be part of your job to interact with the
24 United Nations?

25 A. Well, there are a variety of reasons. The Palestinian

1 refugees in Gaza and the West Bank are assisted by a U.N.
2 agency that the U.S. contributes a lot of money to, the United
3 Nations Relief and Works Agency, which has been in existence
4 since about 1949. There are also various U.N. organizations
5 that provide assistance. For example, the World Food Program
6 provides food packets to Palestinians in Gaza and in the West
7 Bank, and the United States contributes money to that.

8 And from a political point of view, the United Nations
9 has an office in Jerusalem, a representative appointed by the
10 Secretary General of the United Nations, which is the U.N.
11 special coordinator for the occupied territories, who is
12 essentially one of my counterparts as we tried to negotiate
13 and push along this peace process. So I dealt with a variety
14 of U.N. organizations when I was in Jerusalem.

15 Q. Let's talk about the refugees. You said the -- and we
16 have heard about it. That is UNWRA. Correct?

17 A. Yes, that is correct.

18 Q. Okay. Does it -- Is its mandate just the Palestinian
19 refugees from Israel in 1948?

20 A. For Palestinian refugees from 1948, and then also
21 Palestinian refugees who fled again in the 1967 War.

22 Q. So does it just operate in the West Bank and Gaza?

23 A. It operates in the West Bank, Gaza, Jordan, Syria, and
24 Lebanon.

25 Q. Because that is where the refugee camps are?

1 A. That is correct.

2 Q. Now, was it part of your mandate as Chief of Mission
3 Consul General to work with UNWRA?

4 A. Yes.

5 Q. Is that because there is U.S. money involved?

6 A. I think the U.S. contributes annually about 55 percent of
7 the budget of UNWRA.

8 Q. Do you know how many people live in refugee camps in the
9 West Bank and Gaza?

10 A. In the West Bank or in Gaza the population is
11 approximately 1.1 million Palestinians. Eighty percent of
12 those Palestinians live in refugee camps. In the West Bank I
13 think that the number of refugees is smaller actually living
14 in the camps, and about -- But about 40 percent of the total
15 refugee population in the West Bank lives outside the camps,
16 60 percent live inside the camps.

17 Q. During the time -- any of the times that you worked,
18 because I believe you worked in Israel at an earlier time.

19 A. Yes, that is correct.

20 Q. During any of those times, as part of your duties with
21 the government or later when you worked for the Palestinian
22 Authority, did you ever go to refugee camps?

23 A. Many times.

24 Q. And are the refugee camps just the people who fled in
25 1948, or are there now extended families?

1 A. It is the people and their descendants and, you know,
2 this goes back almost 60 years, plus refugees from 1967 as
3 well.

4 Q. You know, I think we think of refugee camps as tents. Is
5 that what these are?

6 A. Originally they were tents, but over time they became
7 built up areas. They are extraordinarily crowded. I think
8 the most densely populated in the world is the Gaza Strip.
9 And these people live in relatively primitive conditions.

10 Q. But do they have shops and schools --

11 A. They have shops. UNWRA is mandated to provide schools
12 for the refugees. It provides medical care, although it is
13 not of a particular high quality. And UNWRA also provides
14 monthly food rations for the refugees.

15 Q. Can you -- Does UNWRA put up any kind of a sign so people
16 know --

17 A. Yes.

18 Q. -- that it is U.N.?

19 MS. HOLLANDER: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q. (BY MS. HOLLANDER) Without describing that yet--I
22 believe that is Defense Exhibit No. 532--let me just ask you,
23 if asked, if you could identify the sign in that photograph?

24 A. Yes.

25 Q. And is that representative of a scene that you have seen

1 in either the West Bank or Gaza or in an UNWRA refugee camp?

2 A. Yes, it is.

3 Q. Is that picture a fair and accurate photo of a U.N. sign
4 and a refugee camp?

5 A. Yes, I have seen many such signs in the past.

6 MS. HOLLANDER: Your Honor, I move the admission of
7 Defense Exhibit No. 532.

8 THE COURT: Counsel?

9 MR. JACKS: Same objection as originally stated.

10 THE COURT: That is overruled, and Defense Exhibit
11 No. 532 is admitted.

12 Q. (BY MS. HOLLANDER) And what is that sign in No. 532?

13 A. It is not -- You know, it is a little fuzzy, but on the
14 left hand side it is in English, and I can see the UNWRA logo
15 as well as the words UNWRA. And on the right hand side it is
16 in Arabic. It appears to be in front of a school and it
17 appears to be a group of young school children, seven or eight
18 years old.

19 MS. HOLLANDER: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q. (BY MS. HOLLANDER) Since the Arabic is kind of fuzzy, is
22 it possible to determine whether this is Lebanon or the West
23 Bank or Gaza?

24 A. I can't tell from the photograph.

25 Q. But this is the sign that UNWRA would put up?

1 A. Yes.

2 Q. I believe you mentioned the population. Do you know what
3 the approximate size of families is in the West Bank and Gaza?

4 A. There is a very high birthrate among Palestinians, and I
5 think the average size according to the U.N. in the immediate
6 family is seven to eight people.

7 Q. Okay. Do you know, if you know, the approximate
8 percentage of the Palestinian population that receives and
9 requires charities to provide food?

10 A. I would say approximately 40 percent. It has increased
11 dramatically over the past several years.

12 Q. Now, you said that UNWRA provides schools. Does UNWRA
13 provide other things besides schools?

14 A. It provides -- In addition to schools, it has medical
15 clinics that people can go to, and it also provides monthly
16 food rations.

17 Q. But this is just to the refugees. Is that correct?

18 A. Yes.

19 Q. Do you know whether UNWRA is still providing assistance
20 to the people in Gaza, even though Hamas is now in control of
21 Gaza?

22 A. It is.

23 Q. It appears that part of your job you spent a great deal
24 of time dealing with the provision of aid. Is that correct?

25 A. Yes, I did.

1 Q. And why was that so much a part of your job?

2 A. Because the United States government felt that if this
3 peace process that was launched in 1993 was to succeed,
4 Palestinians had to feel that their lives were improving, and
5 that that meant economically their lives were improving as
6 well.

7 There was large scale unemployment among Palestinians, so
8 another objective was to try to generate employment, and that
9 in turn improved the general standard of living. So the
10 provision of assistance, the coordination of efforts among
11 different donors, was a major part of my responsibility when I
12 served in Jerusalem.

13 Q. Now, you mentioned that UNWRA ran schools in the refugee
14 camps, and we have seen some backpack programs that Holy Land
15 provided. Are there public schools in Palestine?

16 A. Yes, there are.

17 Q. And who runs those?

18 A. The Palestinian Authority runs those.

19 Q. Okay. Was there ever a period of time when the public
20 schools had been closed in Palestine?

21 A. Yes.

22 Q. What periods of time?

23 A. Particularly during the first Intifada, which was from
24 1988 to 1991.

25 Q. And why were the schools closed?

1 A. Israeli military authorities closed down schools as well
2 as universities as a punitive measure against the
3 Palestinians.

4 Q. And how were the children educated during that time?

5 A. Basically home schooling.

6 Q. Home schooling?

7 A. Home schooling, yes; to the extent that people were able
8 to do that.

9 Q. Now, you have -- I believe you said that when you worked
10 as a representative of the United States government you worked
11 with the PLO and Fatah. Is that correct?

12 A. Yes, I did.

13 Q. Was that government at that time in alliance with Hamas
14 or in conflict with Hamas?

15 A. It was not in alliance with Hamas, and at various times
16 there was actual armed conflict between Hamas and the
17 Palestinian Authority.

18 Q. Now, I want to go back a little bit to one thing I didn't
19 ask you about zakat committees. You said it was part of your
20 job to meet with Palestinian people. Is that correct?

21 A. Yes.

22 Q. During the course of your work in Palestine, did you ever
23 learn from anyone that Hamas got credit for the services
24 received from the zakat committees?

25 A. No.

1 Q. I want to turn to a different subject. We have heard in
2 this case about the deportees in 1992. Are you familiar with
3 that?

4 A. I am.

5 Q. And very briefly, can you tell us from your perspective
6 what that was?

7 MR. JACKS: Judge, I am going to object. This
8 predates the time that he was there, and it is something that
9 has got to be based on hearsay, and we would object to that.
10 He testified that he arrived there in 1993, and this is after
11 he arrived.

12 THE COURT: Do you want to ask some questions to lay
13 a foundation as far as basis of knowledge?

14 Q. (BY MS. HOLLANDER) What is your basis of knowledge for
15 knowing about the deportee situation? Is this part of what
16 you had to know to work in Palestine?

17 A. Not exactly. It was something that I dealt with when I
18 was the Deputy Chief of Mission in Pakistan, because it was an
19 issue that had a lot of resonance in the Islamic world, and I
20 received instructions and other guidance from the Department
21 of State on this specific issue.

22 Q. So you are familiar with this as part of your background
23 and personal experience?

24 A. Yes, I am.

25 MS. HOLLANDER: I would like to ask the question

1 again, Your Honor.

2 THE COURT: Go ahead.

3 Q. (BY MS. HOLLANDER) What is your understanding broadly of
4 this event?

5 A. There had been some attacks against Israeli soldiers and
6 an Israeli policeman in December of 1992 that culminated in
7 the kidnapping and murder of an Israeli policeman Nissim
8 Toledano in early December 1992. Yitzhak Rabin was the prime
9 minister of Israel at the time, and he ordered that people be
10 rounded up and in essence expelled, exiled from the West Bank
11 and Gaza.

12 The Israeli Defense Forces arrested approximately 1600
13 people, and they attempted to expel them without any judicial
14 review. Ultimately approximately 415 Palestinians were exiled
15 into southern Lebanon in December, I think December 16th,
16 1992, and they basically remained there, because the Lebanese
17 government would not allow them to disburse and go into
18 Lebanon.

19 Q. Do you know just in general what the United States'
20 position was at that time?

21 A. The United States government was very strongly opposed to
22 this action, which violated the Geneva Convention.

23 Q. And do you know what finally happened to the 400 odd men?

24 A. Ultimately Israel allowed them to return to their homes
25 and they just went back to their normal community life.

1 Q. Do you know whether Israel claimed that the people who
2 were deported were the ones who actually kidnapped and killed
3 the Israeli?

4 A. Israel never claimed that.

5 Q. And do you know whether the people who were deported were
6 Hamas?

7 A. I think it was a mixture of people. There were some
8 Hamas, there were probably some Islamic Jihad people, but
9 there were also religious people who just got caught up in a
10 big dragnet by the Israeli Defense Forces.

11 Q. Now, we heard a great deal about this particular
12 deportation. Is this the only deportation like this, or just
13 the one that is best known?

14 A. Israel since 1967 has exiled Palestinians from their
15 homeland. This was the largest single deportation since 1967.

16 Q. Have they ever -- Has Israel ever deported secular
17 non-religious people?

18 A. Yes, a number of them.

19 Q. I want to ask you a slightly different subject. We have
20 heard a lot of discussion in this case about the Oslo Accords.
21 Do you have information, based on your personal and
22 professional background, about the Oslo Accords?

23 A. I do.

24 Q. And preliminarily, was the United States government
25 involved in the development of what we call the Oslo Accords,

1 the development of it?

2 A. No. It was negotiated secretly by the Palestinians and
3 the Israelis in Oslo under the auspices of the government of
4 Norway.

5 Q. And how was that?

6 A. There were public negotiations going on in Washington,
7 D.C. which started after the first Iraq war, and there was a
8 peace conference in Madrid, and then the negotiations started
9 and they were hosted in Washington, D.C. at the State
10 Department.

11 Parallel to that there were these secret talks that
12 started off and developed, and ultimately it reached its
13 conclusion in the Oslo Agreement, which was signed at the
14 White House on September 13, 1993.

15 Q. How did the United States learn about the Oslo -- what
16 was going on in Oslo?

17 A. There was a Norwegian academician named Terje Larsen who
18 basically worked this out along with the Norwegian foreign
19 minister. His name was Holst. They had a private jet or
20 Norwegian jet that he flew to Alameda Air Station in
21 California and briefed Secretary of State Warren Christopher
22 and Dennis Ross, who was the special Middle East negotiator,
23 about the Oslo Agreement, and basically they were asking for
24 American blessing of this.

25 Q. And did they receive the American blessing?

1 A. They did. The United States government strongly
2 supported it.

3 Q. And that is what ended up in the signing the agreement at
4 the White House?

5 A. Yes, that is correct.

6 Q. And who represented the Palestinian people?

7 A. There were several negotiators. One was named Ahmed
8 Qurei, who later became the prime minister of the Palestinian
9 Authority, and he was the leader of the Palestinian
10 delegation.

11 Q. Was Yasser Arafat there?

12 A. No, he was not. He was in Tunis at the time.

13 Q. So he was not in the White House at Oslo?

14 A. No, I am talking about the negotiations in Oslo.

15 Q. I am sorry.

16 A. When the agreement was signed at the White House lawn, it
17 was Yasser Arafat and the Israeli prime minister Yitzhak
18 Rabin.

19 Q. In the United States?

20 A. That is correct, yes.

21 Q. Now, do you know whether Hamas supported the Oslo
22 Accords?

23 A. They did not.

24 Q. Okay. And do you know whether there were any other
25 organizations or segments of--let's start first with the

1 Palestinian side--who opposed to Oslo Accords?

2 A. There were a number of Palestinians who were against the
3 Accords.

4 Q. And I am going to ask you about both. Do you know
5 whether there were any Israelis who opposed Oslo?

6 A. Very many Israelis opposed it.

7 Q. Okay. Let's talk first about the Israelis. What segment
8 of the Israeli population opposed Oslo?

9 A. The Likud Party in Israel, which was the second largest
10 party after the Labor Party, was strongly opposed to Oslo.
11 They believed that Israel should not give up any of the
12 territory of the West Bank or Gaza to the Palestinians,
13 because God had promised that land to the Jews. There were
14 other parties, religious parties, Israeli religious parties
15 that were opposed to it. And when it was ultimately approved
16 in the Knesset, the vote was 61 to 59, and the 59 included
17 Likud and various Israeli religious parties that were strongly
18 opposed to the Oslo Accords.

19 THE COURT: We are getting into a lot of detail
20 about the Israeli-Palestinian conflict.

21 MS. HOLLANDER: That was my last question about
22 that.

23 THE COURT: We discussed that this morning. We
24 discussed that this morning.

25 Q. (BY MS. HOLLANDER) I was going to ask about on the other

1 side, the Palestinian side, whether there were others besides
2 Hamas who opposed Oslo?

3 A. There were.

4 Q. In particular anyone?

5 A. Well, for example, one of the lead negotiators in
6 Washington, a woman named Hanan Ashrawi, who I think is very
7 well-known, was against the Oslo Accords.

8 MR. JACKS: Objection. Again, this is outside the
9 scope of this trial and --

10 THE COURT: And I agree about that. She asked about
11 the Israeli, so I will let you finish up about the
12 Palestinians. She asked about Israelis without objection.

13 MR. JACKS: Well, he is testifying about somebody
14 else's statements or opinion.

15 THE COURT: That is what she is asking about, and
16 you didn't object at that time.

17 Q. (BY MS. HOLLANDER) And this is my last question, if he
18 can finish this question -- who if you could go back to this.

19 A. There were Palestinians both within the West Bank and
20 Gaza, as well as in the Palestinian diaspora, who opposed to
21 Oslo Accords because they felt that it was not precise about
22 the creation of a Palestinian state, and because there was
23 nothing to stop the confiscation of Palestinian land by the
24 Israelis and the building of settlements On Palestinian land
25 by the Israelis. And these were both secular and religious.

1 MR. JACKS: We have gone from --

2 THE COURT: I had overruled the objection. He is
3 finished now. Let's move on.

4 Q. (BY MS. HOLLANDER) I just want to show you a map that
5 has been introduced as No. 1013. And this map is dated -- It
6 is called Oslo II 1995. And I want to ask you if, in your
7 opinion, this accurately portrays Area A, which we have heard
8 about, which is the kind of red areas; Area B, the Palestinian
9 villages; and Area C, the Israeli settlement military areas
10 and state lands. Does that look accurate to you?

11 A. Yes, it does.

12 Q. Now, I want to ask you about another area, and that is
13 Hebron. I am just looking to see --

14 MS. HOLLANDER: May I approach and let him point it
15 out on the map, Your Honor?

16 THE COURT: Yes.

17 Q. (BY MS. HOLLANDER) Can you just show us where Hebron is?

18 A. Yes, the city down here.

19 Q. And you are pointing to the south part of the West Bank?

20 A. Yes, that is correct.

21 Q. Have you ever been to Hebron?

22 A. I have.

23 Q. And what is the population mix of the city of Hebron?

24 A. There are a few thousand Israeli settlers there and maybe
25 a couple of hundred thousand Palestinians.

1 Q. Now, we have discussed in this case a particular incident
2 involving Baruch Goldstein and the Hebron massacre. And I
3 don't want to ask you -- We have been through that. I don't
4 want to ask about that. What I want to ask you is whether
5 there is anything in your view particularly about Hebron that
6 caused this to happen there?

7 A. I think it is considered --

8 MR. JACKS: Your Honor, I am going to object to the
9 question, the scope of the question, and the relevance of the
10 question.

11 THE COURT: Well, I am not sure where you are going.
12 That has been talked about, but I think it seems you are going
13 beyond where we need to go.

14 MS. HOLLANDER: I will narrow it, Your Honor. I was
15 trying to lead into something.

16 Q. (BY MS. HOLLANDER) Have you been to Hebron?

17 A. I have.

18 Q. Have you ever seen graffiti in Hebron?

19 A. Yes.

20 Q. And have you seen graffiti that is anti-Jewish or
21 anti-Israeli?

22 MR. JACKS: Objection, Your Honor; relevance.

23 THE COURT: You may ask these questions. Overruled.
24 Go ahead.

25 THE WITNESS: Yes, I have.

1 Q. (BY MS. HOLLANDER) Have you seen any graffiti that is
2 anti-Arab?

3 A. I have.

4 Q. Is it just in Hebron, or have you seen both in other
5 places?

6 A. You see it at different -- I have seen it in East
7 Jerusalem, for example, where Israeli Jews and Palestinians
8 come into contact. There is frequent friction, and you will
9 see that kind of graffiti around the West Bank.

10 Q. But do you see both is what I am asking.

11 A. Yes, you see both anti-Israeli and anti-Muslim.

12 Q. Now, after the Hebron massacre, was there anything as a
13 result of that that resulted in a particular need for the
14 people -- I mean economic need for the Palestinians in Hebron?

15 A. After the massacre, the government of Israel imposed a
16 24-hour, seven day a week curfew for approximately two months,
17 and it would allow Palestinians to leave their house maybe
18 every couple of days to go out and get food, but otherwise
19 they were confined to their houses on a 24-hour curfew for two
20 months.

21 Q. And did anything happen to the settlement where Doctor
22 Goldstein lived?

23 A. No, nothing.

24 Q. Now, you have talked about Yasser Arafat and his position
25 while you were representing the United States government. Was

1 it also part of your job description to have contact with him?

2 A. Yes, it was.

3 Q. And what kind of contact did you have?

4 A. I would meet with him four or five times a week on
5 instructions from the State Department to talk about the
6 negotiations, to discuss institution-building. It was
7 just -- It was -- The primary focus of what I was doing was to
8 try to promote this peace process, and Yasser Arafat was
9 obviously the key person on the Palestinian side, so I dealt
10 with him, on instructions from Washington, on almost a daily
11 basis.

12 Q. Did you get to know him personally?

13 A. I did over the course of the years.

14 Q. Did you ever have any personal encounters with him or
15 social meetings?

16 A. Yes.

17 Q. Now, were you also in Jerusalem when Prime Minister
18 Yitzhak Rabin was assassinated?

19 A. I was.

20 Q. And when did that happen?

21 A. I think it was November 4, 1995.

22 Q. And as U.S. Consul General what did you do in response?

23 A. Called Yasser Arafat and informed him of it, and I was
24 the first one to let him know that Rabin had been
25 assassinated.

1 Q. And what happened after that?

2 A. He was really shocked because he was afraid, first of
3 all, that a Palestinian had killed him.

4 MR. JACKS: Objection, Your Honor.

5 THE COURT: Sustained.

6 Q. (BY MS. HOLLANDER) Did Yasser Arafat attend Rabin's
7 funeral?

8 MR. JACKS: Your Honor, this is beyond issues of
9 this trial.

10 THE COURT: And I agree, counsel. Sustained. That
11 entire issue wasn't gone into, and I don't know what it is
12 relevant to.

13 MS. HOLLANDER: I will move on, Your Honor.

14 THE COURT: All right.

15 MS. HOLLANDER: May I approach with a photograph?

16 THE COURT: Yes.

17 Q. (BY MS. HOLLANDER) I have shown you what has been marked
18 for identification as Defendants' Exhibit No. 426, and the man
19 on I guess the left has already been identified in this case
20 as a Holy Land Gaza employee Mohammad Abu Muharam. Don't tell
21 us who he is, but can you recognize the other gentleman?

22 A. Yes, I do.

23 Q. And do you know what his position was in the Palestinian
24 government?

25 A. Yes, I do.

1 MS. HOLLANDER: Your Honor, I would move the
2 admission of Exhibit No. 426. I don't know that there is any
3 objection.

4 MR. JACKS: I object, Your Honor; no foundation in
5 terms of time, place.

6 THE COURT: Do you want to lay a foundation? I
7 don't remember what was stated about it, if anything,
8 previously. You said somebody had previously been identified,
9 but I don't recall any of the specifics about this.

10 MS. HOLLANDER: Well, laying the foundation is going
11 to require asking him some questions about the photograph and
12 who the person is?

13 THE COURT: No. He stated he can recognize the
14 individual.

15 Q. (BY MS. HOLLANDER) Do you know whether this individual
16 was involved in the Palestinian government during the '90s?

17 A. Yes, he was.

18 Q. Okay. Was he involved in providing of social services
19 and charity?

20 A. Yes, he was.

21 MR. JACKS: Your Honor, I am still going to object.

22 THE COURT: Come up here. Let me take a look at it.
23 I don't have it before me.

24 (The following was had outside the hearing of the
25 jury.)

1 MS. DUNCAN: Your Honor, you might recall, yesterday
2 Mr. Yaish identified this person as with Holy Land.

3 MR. JACKS: Not in that photograph.

4 MS. DUNCAN: Yes, in that exact photograph.

5 THE COURT: But what is the setting here?

6 MS. HOLLANDER: The setting is -- I mean, he was the
7 Minister of Social Affairs, and the purpose of --

8 THE COURT: Social affairs for.

9 MS. HOLLANDER: For the Palestinian Authority, and
10 he knows him. And the purpose of asking him about this is
11 simply that the Holy Land was obviously talking to a member of
12 the Palestinian Authority, and he is going to say he is not
13 Hamas, and that is all.

14 THE COURT: Okay.

15 MR. JACKS: We don't know when, where, he didn't
16 know what they are talking about.

17 THE COURT: I think that just goes to argument. I
18 don't think it goes to admissibility. If he identifies it, it
19 is admitted.

20 (The following was had in the presence and hearing
21 of the jury.)

22 THE COURT: What exhibit number was that, counsel?

23 MS. HOLLANDER: It is No. 426, Your Honor.

24 THE COURT: And that is admitted.

25 Q. (BY MS. HOLLANDER) As to that photograph, as I have

1 said, the gentleman -- one gentleman has already been
2 identified as the Holy Land representative in Gaza Mr. Abu
3 Muharam. Can you identify the other man? I will just take it
4 back from you after you identify him.

5 A. His name is Dr. Riyad Zanoun. He is a physician, and at
6 the time he was the Palestinian Minister of Health.

7 MS. HOLLANDER: May I retrieve it, Your Honor?

8 THE COURT: Yes.

9 Q. (BY MS. HOLLANDER) And the one you have identified is
10 this balding gentleman?

11 A. That is correct.

12 Q. And who did you say he was?

13 A. Dr. Riyad Zanoun, a physician who was the Palestinian
14 Minister of Health.

15 Q. And is this someone who you interacted with?

16 A. Yes, I did.

17 Q. And what was his job?

18 A. He was responsible for overseeing the hospitals, the
19 public hospitals, clinics and so forth, and we dealt with him
20 in terms of providing assistance to the medical sector.

21 Q. So would you expect, or do you know whether it was part
22 of his job to deal with the organizations that were providing
23 charity within the West Bank and Gaza?

24 A. He would meet with them in order to coordinate
25 activities. If they were assisting the ministry of health, it

1 would be part of his duties to meet with these people.

2 Q. I don't know if you can, but can you identify the flags
3 in that?

4 A. The one in the background is the Palestinian flag, the
5 one that goes up right to the right of Doctor Zanoun. The one
6 in front I really can't tell, but the one in the back is the
7 Palestinian flag.

8 Q. And I just want to ask you, do you see a small number
9 here that says HLDL216 and a longer number?

10 A. Yes, I see that.

11 Q. And I forgot to ask you when we were looking at
12 Defendants' No. 532, the UNWRA picture, do you also see an
13 HLDL216 and a longer number there?

14 A. I do.

15 Q. Now, was Doctor Zanoun someone who was in Chairman
16 Arafat's cabinet?

17 A. He was. He was the Minister of Health.

18 Q. And was he a Hamas member?

19 A. No, he was Fatah.

20 Q. I am going to move to --

21 THE COURT: Let's take a 20-minute recess.

22 (Whereupon, the jury left the courtroom.)

23 THE COURT: Be in recess 20 minutes.

24 (Brief recess.)

25 THE COURT: Ms. Hollander?

1 MS. HOLLANDER: Thank you, Your Honor.

2 Q. (BY MS. HOLLANDER) Before I move onto another subject, I
3 forgot to ask you another question about UNWRA. Does UNWRA
4 provide some kind of rations?

5 A. It does. It provides monthly rations to refugees in the
6 camps in Gaza and also the West Bank.

7 Q. And do you know what those rations consist of?

8 A. For a family of five it is 110 pounds of flour a month,
9 10 pounds of sugar, 10 pounds of rice, 10 pounds of lentils,
10 two quartz of cooking oil, and two pounds of dried powdered
11 milk.

12 Q. And do you know whether UNWRA is still providing these
13 rations in Gaza?

14 A. I am sorry?

15 Q. Do you know whether UNWRA is still providing these
16 rations?

17 A. Yes, they are.

18 Q. Now, I want to show you what has been admitted I guess
19 outside the presence of the jury as Defendants No. 1423. It
20 is a map. And because it is a little hard to show the whole
21 thing at once, let me first ask you if you have ever seen this
22 map before.

23 A. I have.

24 Q. And what is the little logo up here?

25 A. That is the symbol of the United Nations.

1 Q. And this particular United Nations agency, United Nations
2 Office for the Coordination of Humanitarian Affairs, are you
3 familiar with that agency?

4 A. Yes, I am.

5 Q. And what is that?

6 A. It is an agency -- a branch of the U.N. presence in
7 Jerusalem. It has its offices in East Jerusalem, and it
8 monitors the placement of Israeli road blocks and barriers in
9 the West Bank that impede Palestinian movement. It monitors
10 violence between Israelis and Palestinians, and it monitors
11 the construction of the security barrier that the Israelis
12 have built, as well as settlements and the roads leading to
13 the settlements and, it issues periodic reports on those.

14 Q. Now, I am going to have to go up and down with this. Is
15 this essentially a map of the West Bank?

16 A. Yes, it is.

17 Q. And there are some areas in red. Do you know -- By red,
18 I mean these areas like I am pointing to.

19 A. Yes. Those are Israeli settlements.

20 Q. Okay. And then there are some areas in yellow. What are
21 those?

22 A. Those are built-up Palestinian areas.

23 Q. And there is an area in gray, and what is that?

24 A. Those are closed military areas by the Israeli army.

25 Q. Okay. And just so we have a reference, what is this

1 river?

2 A. That is the Jordan River.

3 Q. So that is Jordan on the east?

4 A. The east, yes. The country, the Hashemite Kingdom of
5 Jordan.

6 Q. Let me ask you, or let's start at the top. What is
7 the -- Now, this map is dated -- I am not sure you can read
8 it, but the date is 5 October, 2006.

9 A. Yes, I see that.

10 Q. Let me ask you, first of all, where it says Palestinian
11 built-up areas in the West Bank, what is the population?

12 A. According to this map 244,500.

13 Q. No, 2 million?

14 A. Excuse me 2,444,500.

15 Q. And do you know whether that is accurate?

16 A. I think -- Well, this is two years old, so the population
17 has increased somewhat since then.

18 Q. And the red areas, you said those were Israeli
19 settlements?

20 A. That is correct.

21 Q. And it says 96 outposts. What are those?

22 A. Those are illegal settlements that the government of
23 Israel has not sanctioned but settlers have set up.

24 MR. JACKS: Your Honor, objection.

25 THE COURT: Sustained.

1 Q. (BY MS. HOLLANDER) What is the population of the
2 settlements?

3 A. Again, it says 450,000 here. It is now approximately
4 490,000.

5 Q. Okay. Now, we have heard some evidence in this case
6 about bypass roads, and they aren't on this map but can --
7 Using this map, can you just say where the bypass roads go and
8 what they are?

9 A. If you look at the settlements, the red areas, the
10 Israelis from 1996 on --

11 MR. JACKS: Your Honor, again I think you told me to
12 object if I have an objection. I do object to this. I think
13 it is irrelevant and outside the scope of this trial.

14 THE COURT: I will sustain the objection, counsel.

15 MS. HOLLANDER: Can I just ask the impeachment
16 question, Your Honor, about who can use the bypass roads?

17 THE COURT: You may do that.

18 Q. (BY MS. HOLLANDER) We have heard about the bypass roads.
19 Can you just tell us who can use the bypass roads that go to
20 the settlements?

21 A. The Israeli military only allows Israeli yellow-plated
22 cars to use the bypass roads, and the roads are predominantly
23 for the settlers to travel in and out of the West Bank. There
24 are a limited number of Palestinian officials, approximately
25 250 or so, with VIP passes that are allowed to use the bypass

1 roads. The ordinary Palestinian is subject to arrest if he or
2 she drives on the bypass roads.

3 Q. Is that true all the time or just during sometimes?

4 A. It is true all the time.

5 Q. Now, are there any Arabs who are actually Israeli
6 citizens and who have the Israeli license plates?

7 A. There are -- Approximately 15 percent of the Israeli
8 population of 7 million are Israeli Arabs, plus there are a
9 another 200,000 Palestinians in East Jerusalem who have a
10 license plate that allows them to use the bypass roads.

11 Q. Okay. I want to ask you another question about something
12 we have seen in this case. We saw a lot of posters that were
13 seized from the zakat committees.

14 MS. HOLLANDER: May I retrieve one of the
15 Government's --

16 THE COURT: Yes.

17 MS. HOLLANDER: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q. (BY MS. HOLLANDER) I am showing you what has been marked
20 as Tulkarem exhibit Zakat No. 1 just as a representative
21 sample. Have you seen posters like this?

22 A. Yes, I have.

23 Q. Okay. And where have you seen posters of people who in
24 the general parlance are terrorists or suicide bombers?

25 A. They are plastered all over Palestinian cities. You see

1 them on walls, on light posts, in offices. It is a very
2 common -- Like I say, you see them all over the place.

3 Q. Are they just -- When you were in the zakat committees,
4 did you ever see posters like this one?

5 A. On occasion.

6 Q. Did you see other kinds of posters?

7 A. Well, there is always a photograph of Yasser Arafat
8 there, as well as, you know, a poster of Jerusalem. That is
9 also very common to see there. And you would see Fatah
10 figures as well, Fatah figures that have been killed by the
11 Israelis.

12 MS. HOLLANDER: May I approach?

13 THE COURT: Yes.

14 Q. (BY MS. HOLLANDER) Showing you what has been marked as
15 Defendants' Exhibit No. 364, without telling us what that is,
16 do you recognize that?

17 A. Yes.

18 Q. And does that photograph represent the area that -- an
19 area that you are familiar with?

20 A. It appears to be in the Gaza Strip.

21 Q. Okay. Don't say what it is yet.

22 A. All right.

23 Q. And does it include some things on a wall that you have
24 seen before?

25 A. Yes.

1 Q. Does that -- Would you have seen that picture, that scene
2 during the time you were stationed in Jerusalem?

3 A. Yes, it was very common.

4 MS. HOLLANDER: Your Honor, I move Defendants'
5 Exhibit No. 364.

6 THE COURT: Mr. Jacks?

7 MR. JACKS: May I take the witness on voir dire?

8 THE COURT: Yes.

9 Q. (BY MR. JACKS) Sir, the exhibit, do you know where that
10 picture was taken?

11 A. Not precisely I do not.

12 Q. Do you know when it was taken?

13 A. No, I don't know.

14 Q. Okay.

15 MR. JACKS: I don't believe there is any foundation,
16 Your Honor.

17 THE COURT: Well, she has laid a foundation.
18 Defendants' No. 364 is admitted.

19 MS. HOLLANDER: May I retrieve it, Your Honor?

20 THE COURT: Yes.

21 MR. JACKS: Your Honor, is it a demonstrative?

22 THE COURT: Are you using that as substantive
23 evidence.

24 MS. HOLLANDER: It is substantive evidence, Your
25 Honor.

1 THE COURT: I think that is what she offered it for.

2 MR. JACKS: We object to it in the sense that he
3 doesn't know where it is. If it is a demonstrative and
4 similar to places he has seen and places he has been, then we
5 believe at most it should be a demonstrative.

6 MS. HOLLANDER: He does know where it is.

7 THE COURT: I think he identified the place. Let
8 her examine the witness, but it has been admitted.

9 Q. (BY MS. HOLLANDER) Looking at No. 364, where is that?

10 A. The Gaza Strip.

11 Q. And how do you identify the Gaza Strip?

12 A. You can tell by the kind of buildings and then the road
13 which is frequently sandy and so forth; very flat coastal
14 area.

15 Q. And are there any trees there?

16 A. No.

17 Q. Are there trees in Gaza?

18 A. There are. There are olive groves, a lot of orange
19 groves.

20 Q. But do you see them in the cities?

21 A. No, you do not.

22 Q. Now, there are some posters on the side there. Do you
23 see those?

24 A. I do.

25 Q. What kinds of posters are those?

1 A. Those are when someone has been killed by the Israelis,
2 for whatever reason, the family or political organization will
3 put up posters that will print up posters, and they are sort
4 of plastered around the city.

5 Q. Does it also -- Do you also see posters of people who
6 kill Israelis, like suicide bombers?

7 A. Yes, you do, yes.

8 Q. Okay. And so when you say that these are plastered
9 around the city, do you see these on the West Bank, too?

10 A. You do.

11 Q. Can you buy them in the markets?

12 A. You can buy some posters in the markets, but generally
13 the practice is they just print them up and put them on walls
14 and light posts and things like that. But you can purchase
15 posters that, you know, may glorify some particular
16 individual.

17 Q. I would like you to look at -- If we can switch for a
18 minute, I would like you to look at something that has been
19 introduced in this case. It is Nablus Zakat No. 5. This has
20 been introduced. Can you see this? Do you know generally
21 what that is?

22 A. It looks like a day calendar.

23 Q. And I would like to ask you to describe the individual
24 pictures if you know what they mean. What is that a picture
25 of?

1 A. It appears to be an Israeli soldier with Palestinian
2 school children.

3 Q. And does the soldier have a weapon?

4 A. He does. He has an M-16, I believe.

5 Q. And the next one?

6 A. That appears to be a Palestinian demonstration.

7 Q. Have you ever seen demonstrations like this?

8 A. I have.

9 Q. And the next one?

10 A. It appears to with a destroyed Palestinian house.

11 Q. Have you ever seen destroyed Palestinian houses?

12 A. Many times.

13 Q. The next one, what is that?

14 A. It is a Palestinian, I guess, young man with a sling
15 probably throwing a stone.

16 Q. Did you ever see children throwing stones?

17 A. I have. My car has been hit by them.

18 Q. The next one, what is that?

19 A. I think that this is the al-Aqsa mosque in Jerusalem with
20 an Israeli soldier and with Palestinians throwing rocks.

21 Q. We have heard about the Dome of the Rock. Is that what
22 that is?

23 A. The Dome of the Rock is another structure on the holy
24 platform. This is the al-Aqsa mosque which is part of that
25 general complex, but the Dome of the Rock is something

1 different.

2 Q. Do you know whether this symbol is important to Muslims
3 in general?

4 A. Al-Aqsa mosque is one of the most holy mosques in Islam
5 and it is considered, you know, a very sacred site by Muslims.

6 Q. And the Dome of the Rock, do you know if it is considered
7 sacred?

8 A. Very much so. It is when the Prophet Muhammad sprang
9 into heaven and received the word from God that Muslims should
10 pray five times a day.

11 Q. And the next one, please. What does this appear to be?

12 A. It appears to be Palestinian school girls running for
13 some reason.

14 Q. And the next one, please. Can you tell what this is?

15 A. It is an Israeli policeman, but I can't quite make out
16 what he is doing.

17 Q. Okay. The next one, please.

18 A. I think that is an Israeli soldier in front of a burning
19 building.

20 Q. And the next one?

21 A. It appears to be an Israeli bus or vehicle that has maybe
22 been blown up.

23 Q. And the next one, what is that?

24 A. It appears to be a car with an individual in it that has
25 had numerous shots fired at it.

1 Q. And is there another one? One more?

2 A. This appears to be the transfer of either a Palestinian
3 who is on a stretcher. Whether the person is dead or alive,
4 you really can't tell.

5 Q. Okay. Now, if you go back just to the one that is the
6 demonstration up in the top middle, can you tell what those
7 flags are?

8 A. I think the red flag is of the Palestinian communist
9 party, and I am not sure what the black flags are.

10 Q. Do you know what the Hamas flag looks like?

11 A. The Hamas flag is green, and it may be a green flag
12 behind the red one but it is too blurry for me to say with any
13 certainty.

14 Q. Do you have any -- Do you know what this calendar
15 represents overall?

16 A. I think for Palestinians it represents a kind of
17 extraordinarily difficult life they lead.

18 MR. JACKS: Your Honor, I object. Expressing an
19 opinion of what this calendar means, his opinion, he is not an
20 expert.

21 THE COURT: You can offer a lay opinion, of course,
22 if he has a basis. You may ask. Go ahead.

23 Q. (BY MS. HOLLANDER) You may continue.

24 A. The Israelis exercise a very, very hard-handed,
25 hard-fisted occupation of the Palestinian areas. They destroy

1 Palestinian houses, they arbitrarily arrest people --

2 THE COURT: That is going beyond the opinion of the
3 calendar, without describing all the political --

4 THE WITNESS: All right. These are scenes that I
5 believe Palestinians would say are representative of daily
6 Palestinian life under occupation.

7 Q. (BY MS. HOLLANDER) Thank you.

8 MS. HOLLANDER: You can take it down. Thank you
9 very much, Mr. Lewis.

10 Q. (BY MS. HOLLANDER) Do you know whether the -- during
11 Operation Defensive Shield whether the Israeli army took land
12 records?

13 A. Yes, they did, in Ramallah.

14 Q. And did that have any economic impact on the
15 Palestinians?

16 MR. JACKS: Objection; irrelevant. It is not
17 relevant to any issue in this case.

18 THE COURT: What is that relevant to, counsel?

19 MS. HOLLANDER: Your Honor, the Government has
20 brought up Operation Defensive Shield.

21 THE COURT: I understand that, but this particular
22 question --

23 MS. HOLLANDER: It has an economic effect on
24 individuals. That is all I am going to ask him.

25 MR. JACKS: Your Honor, that is not relevant to this

1 issue.

2 THE COURT: Economic effects, I will let you ask
3 that.

4 MS. HOLLANDER: Thank you, Your Honor.

5 Q. (BY MS. HOLLANDER) What was the economic effect of the
6 Israelis taking the land records?

7 A. The Israeli army seized the land records of the
8 Palestinian Authority in Ramallah, and what it meant was that
9 without those records you can't prove ownership of the land.

10 Q. For individuals?

11 A. For individuals. That is correct.

12 Q. I mean, how does that have an economic effect on people?

13 A. If you can't prove the ownership of the land, then
14 Palestinians fear that the Israelis would seize it for
15 settlement purposes.

16 Q. Now, we have heard the word Islamist in this trial a
17 number of times. From your years of working in the Middle
18 East, do you have an opinion as to what that word means, what
19 an Islamist is?

20 A. It is kind of a complicated issue to explain, but it is
21 between political Islam -- Islam has always been a very
22 politicized religion and Palestinian secular nationalism,
23 which from 1945 to say 1990 or so was fighting with political
24 Islam. To say that -- I mean, it just means that Islam as a
25 focus of the life of a Muslim covers all aspects of that life;

1 his personal life as well as political.

2 Q. Do you -- In your mind is Islamist the same as Hamas?

3 A. No.

4 Q. And would -- For, example do you know whether --
5 would -- You said it considers it a pious Muslim. Is that what
6 you said?

7 A. Yes.

8 Q. Do you know whether Yasser Arafat who ran the secular
9 party Fatah was a pious Muslim?

10 A. Yes, he was.

11 Q. Do you know whether he prayed on a regular basis?

12 THE COURT: Why is that relevant?

13 MS. HOLLANDER: I am trying to define what this term
14 means.

15 THE COURT: I think you are getting too far afield
16 again.

17 Q. (BY MS. HOLLANDER) Are you familiar with a man named
18 Adnan Husseini?

19 A. I am.

20 Q. And who is he?

21 A. He is the director of awqaf at the Haram al-Sharif in
22 East Jerusalem.

23 Q. What is the Haram al-Sharif?

24 A. For Muslims, it is the holy complex where the al-Aqsa
25 mosque is and the Temple mount is. For Jews, it is called the

1 Temple mount and it was the site of the Jewish Temple that was
2 destroyed by the Romans in the first century A.D. It is the
3 holy site to both.

4 Q. This is the place where the wailing wall comes together
5 with the Muslim holy site. Is that correct?

6 A. That is correct.

7 Q. And the awqaf is the Islamic Trust?

8 A. That is correct.

9 Q. Okay. In your opinion, is this somebody you know, Adnan
10 Husseini?

11 A. Yes. I dealt with him when I was a Consul General.

12 Q. Would you consider him an Islamist?

13 A. Yes.

14 Q. Do you know whether he had any contact with other members
15 of the United States government in addition to you?

16 A. Yes, he did.

17 MS. HOLLANDER: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q. (BY MS. HOLLANDER) I am showing you what has been marked
20 as Defendants' Exhibit No. 1102, and without describing it,
21 are you familiar with that website?

22 A. Yes, I am.

23 Q. And can you identify the woman in the black scarf?

24 A. Yes, I can.

25 Q. Can you identify the gentleman she is talking to?

1 A. Yes, I can.

2 Q. Can you identify the location?

3 A. I can.

4 Q. And are you familiar -- You said that Americans would
5 from time to time meet Adnan --

6 MR. JACKS: Object to the narrative of the question.

7 THE COURT: Do you want to ask a question?

8 MS. HOLLANDER: I am trying to lay this predicate,
9 Your Honor.

10 Q. (BY MS. HOLLANDER) Is this a fair and accurate
11 representation of a United States -- someone representing the
12 United States meeting with Adnan Husseini?

13 A. Yes, it is.

14 MS. HOLLANDER: Your Honor, I move the admission of
15 No. 1102.

16 THE COURT: Mr. Jacks?

17 MR. JACKS: Same objection, Your Honor. There is no
18 foundation, it is not relevant, and no proper predicate has
19 been laid.

20 THE COURT: Approach the bench on this one a minute.

21 (The following was had outside the hearing of the
22 jury.)

23 THE COURT: This is the First Lady picture. Right?

24 MS. DUNCAN: Yes.

25 THE COURT: Why is it relevant? Who is that

1 individual?

2 MS. HOLLANDER: Adnan Husseini is the leading
3 Islamic figure, and this is a member of the -- Bush's wife --

4 THE COURT: Has he been mentioned in this case?

5 MS. HOLLANDER: He has not been mentioned. Well,
6 yes. He is the Minister of Awqaf, which is the Islamic Trust
7 which administers the zakat committees, and she is meeting
8 with him.

9 THE COURT: Okay. I am going to sustain on
10 relevance. Sustained.

11 (The following was had in the presence and hearing
12 of the jury.)

13 THE COURT: Sustain the objection to Defendants'
14 Exhibit No. 1102.

15 Q. (BY MS. HOLLANDER) Do you know whether Yasser Arafat was
16 a member of the Muslim Brotherhood?

17 A. Yes, he was.

18 Q. Another area that we have discussed in this case is the
19 issue of martyrs. Do you know whether the Palestinian
20 Authority had a cabinet post that was focused on martyrs?

21 A. Yes, I do.

22 Q. And what is it called?

23 A. It was the Ministry of Martyrs.

24 Q. And what did that ministry do?

25 A. It provided allowances, financial allowances to people

1 who had been killed by the Israeli military.

2 Q. Now, was this under Fatah or Hamas?

3 A. It was under Fatah.

4 Q. And do you know, if you know, whether this ministry is
5 provided across the board for families of -- I think it is
6 called the Ministry of Prisoners and Martyrs. Is that
7 correct?

8 A. Yes.

9 Q. Do you know whether it made any distinctions between who
10 it assisted and who it didn't, if you know?

11 A. I don't know.

12 Q. Okay. Do you know whether Chairman Arafat took any
13 particular interest in orphans or martyrs?

14 A. Yes, he did.

15 Q. And do you know that from personal experience?

16 A. I do.

17 Q. How do you know that?

18 A. He took me to an orphanage once that he had sponsored
19 where there were children from -- very young children to 16,
20 17, 18 years old.

21 Q. And were those -- Were any of those children the children
22 of parents who had been imprisoned, or do you know?

23 A. As he stated to me, their parents had been killed during
24 the course of Israeli military operations.

25 Q. On behalf of the United States when you were there

1 representing the United States, did you ever attend the
2 funeral or visit the family of a martyr?

3 A. I did.

4 Q. On one occasion, more than one occasion?

5 MR. JACKS: Objection, Your Honor; relevance.

6 THE COURT: Sustained.

7 Q. (BY MS. HOLLANDER) Let me ask you a different question.
8 Some of the gentlemen on trial here have family members that
9 have been identified as members of Hamas.

10 MR. JACKS: Your Honor, I object again to the
11 unnecessary narrative.

12 THE COURT: Sustained. You are --

13 MS. HOLLANDER: I am just trying -- I can ask it
14 without that, Your Honor. I am just trying to make this clear
15 where we are going. I am sorry.

16 THE COURT: Okay.

17 Q. (BY MS. HOLLANDER) Are you aware of Palestinians who
18 have family members who are on both sides of the Palestinian
19 issue, like one family member is one organization and another
20 one is another organization?

21 A. Yes, I am.

22 Q. Do you know whether that is common or uncommon?

23 A. It is fairly common.

24 Q. Are there any particular individuals who are well known
25 in the United States with family members who are members of

1 Hamas or other organizations like Hamas?

2 A. Well, for example, Mousa Abu Marzook is part of the Hamas
3 Polit Bureau, and he has a cousin who was General Abu Marzook,
4 who was on the staff of President Arafat.

5 Q. Did you ever meet General Marzook?

6 A. I did.

7 Q. Okay. Are you familiar with an individual named Khalil
8 Shikaki?

9 A. I am.

10 Q. And who is he?

11 A. He is an American educated Ph.D. who does public opinion
12 surveys in the West Bank and Gaza.

13 Q. To your knowledge--this is kind of a yes or no
14 question--has he ever met with members of the U.S. government?

15 A. He has.

16 Q. And do you know if he has a relative or had a relative
17 who was a member of a terrorist organization?

18 A. His brother Fathi Shikaki had been head of the
19 Palestinian Islamic Jihad, and was assassinated by the Mossad
20 in 1990 for --

21 MR. JACKS: Your Honor --

22 MS. HOLLANDER: That is the end of that, Your Honor.

23 MR. JACKS: I object. She asked about if he had a
24 brother, and he volunteered --

25 THE COURT: The part about the assassination, that

1 was not necessary. That was not part of it.

2 Q. (BY MS. HOLLANDER) Now, I just want to go through the
3 zakat committees in this case, specific zakat committees, and
4 ask you some questions.

5 MS. HOLLANDER: Your Honor, I am going to ask these
6 one at a time so it is not a compound question.

7 Q. (BY MS. HOLLANDER) Were you ever told in any U.S.
8 government briefing that the Qalqilya zakat committee was
9 operated on behalf or under the control of Hamas?

10 A. No.

11 Q. Were you ever told in any U.S. government briefing that
12 the Islamic Charitable Society of Hebron was operated on
13 behalf or under the control of Hamas?

14 A. No.

15 Q. Were you ever told in any U.S. government briefing that
16 the Tulkarem zakat committee was operating on behalf of or
17 under the control of Hamas.

18 A. No.

19 Q. Were you ever told in any United States government
20 briefing that the Nablus zakat committee was operated on
21 behalf of or under the control of Hamas?

22 A. No.

23 Q. Were you ever told in any United States government
24 briefing that the Ramallah zakat committee was operated on
25 behalf of or under the control of Hamas?

1 A. No.

2 Q. Were you ever told in any United States government
3 briefing that the Jenin zakat committee was operated on behalf
4 of or under the control of Hamas?

5 A. No.

6 Q. And were you ever told in any United States government
7 briefing that the Islamic Science and Culture Committee was
8 operated on behalf of or under the control of Hamas? Were you
9 ever told in any briefing that that organization was operated
10 under the control of Hamas?

11 A. I think that was the one in Gaza?

12 Q. No, it is in Jerusalem.

13 A. Jerusalem?

14 Q. Were you ever specifically told --

15 A. No, not that I recall, no.

16 Q. Do you know whether zakat committees are effective in
17 what they do for people?

18 A. Yes.

19 Q. And is there any question in your mind, based on your
20 experience, of the tremendous need of the Palestinian people
21 for charity?

22 A. No, there is not.

23 Q. Do you know whether Israel provides the necessary food,
24 medical care, and schooling for the Palestinian people?

25 A. It does not.

1 Q. Do you know whether the Palestinian Authority is capable
2 of providing the necessary food, medical care, and schooling
3 for the Palestinian people?

4 A. In limited amounts, but not fully.

5 Q. And just to be clear, this program we talked to,
6 Defendants' Exhibit No. 1074, am I correct that the United
7 States government through the USAID continued to provide
8 charity?

9 MR. JACKS: Objection; leading.

10 THE COURT: Do you want to rephrase?

11 MS. HOLLANDER: I will rephrase.

12 Q. (BY MS. HOLLANDER) Did the USAID continue to provide
13 charity, either -- I mean services, directly or indirectly, to
14 the zakat committees after 2001?

15 A. Yes, until 2006.

16 Q. In your opinion, are charities necessary for the
17 Palestinian people to survive?

18 A. Very much so.

19 MS. HOLLANDER: Your Honor, I will pass the witness.

20 THE COURT: Any other Defense counsel?

21 Mr. Dratel?

22 DIRECT EXAMINATION

23 By Mr. Dratel:

24 Q. Good morning.

25 A. Good morning.

1 Q. There has been testimony about people who experts have
2 relied on. One is someone named Khalid al-Qidra. Is that
3 name familiar to you?

4 A. Yes, it is.

5 Q. And who is or was Khalid al-Qidra?

6 A. He was the Palestinian Attorney General in the Ministry
7 of Justice in Gaza when I was the American Consul General.

8 Q. And was he Fatah or Hamas?

9 A. He was Fatah.

10 Q. And do you know what happened to him professionally?

11 A. He was fired by the Palestinian Authority for corruption.

12 Q. Thank you.

13 MR. DRATEL: Pass the witness, Your Honor.

14 THE COURT: Any other counsel have any --

15 MS. MORENO: No, Your Honor.

16 MR. WESTFALL: No, Your Honor.

17 MS. CADEDDU: No, Your Honor.

18 THE COURT: Mr. Jacks?

19 CROSS EXAMINATION

20 By Mr. Jacks:

21 Q. Sir, your career with the State Department began when?

22 A. In April 1970.

23 Q. And your postings have been where?

24 A. Do you want me to include the postings in Washington,
25 D.C.?

1 Q. No.

2 A. I have been posted in Tel Aviv.

3 Q. When was that?

4 A. That was 1972 to 1975.

5 Q. And did you work in the embassy in Tel Aviv?

6 A. I did.

7 Q. What was your department?

8 A. I was in the Political Section.

9 Q. And after -- What other overseas postings?

10 A. I was in Tunisia in 1978, '79.

11 Q. Tunisia is in North Africa. Correct?

12 A. That is correct.

13 Q. And what was your portfolio or responsibility?

14 A. I was studying Arabic at the U.S. embassy there.

15 Q. So you just took language lessons?

16 A. That is correct.

17 Q. Had no other real duties?

18 A. It was a language program administered by the Department
19 of State.

20 Q. All right. And your next overseas posting?

21 A. It was Damascus, Syria.

22 Q. The time period?

23 A. From 1979 to 1982.

24 Q. And after that?

25 A. I was in Islamabad, Pakistan from 1987 to 1990.

1 Q. And after that?

2 A. I returned to Islamabad, Pakistan and was the Deputy
3 Chief of Mission from 1992 to 1993.

4 Q. The gaps or the periods that are unaccounted for, for
5 example from 1982 to 1987, would you have been stationed in
6 Washington, D.C.?

7 A. Yes, that is correct.

8 Q. Did your assignment have anything to do with the Middle
9 East during that time?

10 A. Yes, it did.

11 Q. What was your post or area of responsibility?

12 A. From 1982 to 1985 I was the acting Director of the
13 Israeli-Palestine Desk, and then Deputy Director of the
14 Israeli-Palestine Desk.

15 Q. And from '90 to '92, were you in Washington?

16 A. Yes, I was.

17 Q. What was your responsibility?

18 A. I was Director of the Desk for Afghanistan, Bangladesh,
19 and Pakistan.

20 Q. Tunisia, is that a Muslim country?

21 A. It is.

22 Q. And Syria, is that a Muslim country?

23 A. Yes, it is.

24 Q. And Pakistan, is that a Muslim country?

25 A. It is.

1 Q. You were the Consul General in Jerusalem from 1993 to
2 1997?

3 A. Yes, that is correct.

4 Q. And when in 1993 did you arrive there?

5 A. October 1.

6 Q. So after the Oslo Accords had been signed?

7 A. That is correct.

8 Q. And when did you leave? What month did you leave?

9 A. I think it was in August of 1997. Either late July or
10 early August.

11 Q. Who was your predecessor as Consul General?

12 A. A woman named Molly Williamson.

13 Q. Who was your successor?

14 A. A man named John Herbst.

15 Q. Would you spell his last name?

16 A. H E-R-B-S-T.

17 Q. Your tenure there as the Consul General was during the
18 Clinton administration. Correct?

19 A. That is correct.

20 Q. And who did you report to as Consul General?

21 A. I reported to the Department of State.

22 Q. And was there a particular position that you reported to,
23 a department, sub-department?

24 A. There was -- Administratively my post, and others in the
25 region, were under the authority of the Assistant Secretary

1 for Near Eastern Affairs.

2 Q. You say others in the region. That would include where?

3 A. Egypt, Jordan, Syria, Lebanon, North Africa, Saudi
4 Arabia, Iran.

5 Q. All right. And then that position was what? Assistant
6 Secretary for Near East Affairs?

7 A. That is correct.

8 Q. Was it further defined as Near East Affairs for any type
9 of activity or area of responsibility?

10 A. The specific title, Mr. Jacks, was the Bureau of Near
11 East Affairs, and then the Assistant Secretary of Near Eastern
12 Affairs.

13 Q. And the Secretary of State, the person that was the head
14 of the State Department, was whom during your tenure as Consul
15 General?

16 A. When I first arrived in Jerusalem it was Warren
17 Christopher, and then it became Madeleine Albright.

18 Q. And you have told us the distinction between the Consul
19 General and the ambassador. The United States had an
20 ambassador to Israel. Is that correct?

21 A. That is correct.

22 Q. And that -- The United States embassy in fact is located
23 in Tel Aviv. Correct?

24 A. Yes.

25 Q. And that is where the ambassador officed or sat.

1 A. That is correct.

2 Q. Who was the ambassador while you were Consul General?

3 A. A man named Martin Indyk.

4 Q. During the entire time that you were there?

5 A. Yes. No, when I first arrived the ambassador was a guy
6 named Ed Djerejian, and then he was replaced by Martin Indyk.

7 Q. Now, the ambassador to a country has to be confirmed by
8 the Senate. Correct?

9 A. Correct.

10 Q. He is appointed by the President and then there is a
11 Senate confirmation process.

12 A. Yes, that is correct.

13 Q. Is that -- That is not true for the Consul General,
14 though, is it?

15 A. No. The Consul General was vetted by the White House but
16 not subject to confirmation by the Senate.

17 Q. After you left in August of '97, where did you go?

18 A. I was posted back to the Department of State in
19 Washington.

20 Q. And how long did you work for the State Department after
21 that?

22 A. Until December 1999.

23 Q. And did you resign or retire?

24 A. I retired.

25 Q. What did you do after that?

1 A. After I retired?

2 Q. Yes.

3 A. I was a consultant to the Palestinian Authority from late
4 December 1999 until late December 2006.

5 Q. And did you -- What was the time span between the time
6 you retired until you became a consultant for the Palestinian
7 Authority?

8 A. Same day.

9 Q. Okay. And as a consultant, were you -- Did you at times
10 in that job act as a lobbyist?

11 A. I did.

12 Q. Did you have to register as a lobbyist?

13 A. I did.

14 Q. Did you also have to register as an agent for a foreign
15 power or government or entity?

16 A. To tell you the truth, I am not -- I don't recall the
17 distinction between the registration requirements, but the
18 firm I worked in, we were -- we followed the legal
19 requirements in terms of representing a foreign entity.

20 Q. Okay. And then there was -- Was other requirements you
21 had to fill out to register as a lobbyist to contact the U.S.
22 government on behalf of other entities?

23 A. Yes, that is correct.

24 Q. Is it a fair assumption that your discussions -- Let me
25 strike that, please, and let me back up. Who hired you to be

1 a consultant for the -- Was it -- Who was your client? The
2 Palestinian Authority, the Palestinian government?

3 A. It was the Palestinian Authority.

4 Q. Who --

5 A. Administered on behalf of the Palestinian Authority.

6 Q. Who hired you for that job?

7 A. It was with the agreement of Yasser Arafat. I mean, I
8 think he basically approved the arrangement.

9 Q. And did you negotiate for that position while you were
10 still working for the State Department?

11 A. I did.

12 Q. And you said you worked as the consultant for basically
13 seven years for the Palestinian Authority. Is that correct?

14 A. Yes.

15 Q. And what was your compensation for that during that time?

16 A. The contract -- The first year was for \$750,000, which
17 went to the firm, not me personally, went to the firm of
18 approximately 12 people, and then thereafter the compensation
19 under the contract was \$600,000 per year. And again, it went
20 to the firm, not to me personally.

21 Q. You said this firm -- What was the name of the firm?

22 A. Bannerman & Associates.

23 Q. You said it had 12 people. Does that include secretaries
24 and everything or --

25 A. Yes.

1 Q. Okay. And this firm Bannerman & Associates, did it exist
2 before you went to work for them?

3 A. Yes, it did.

4 Q. And did they have the Palestinian Authority as a client
5 before you went to work for them?

6 A. They did not.

7 Q. So you brought them there as a client?

8 A. Yes.

9 Q. And you said it was \$750,000 for the first year and then
10 \$600,000 for each year after that?

11 A. That is correct.

12 Q. And so three or four million over the span of the
13 contract was what the compensation was for that service?

14 A. Approximately, yes.

15 Q. Were you criticized for that -- for the fact that you had
16 left the government one day and then went to work for the
17 Palestinian Authority the next day?

18 MS. HOLLANDER: Objection, Your Honor; irrelevant.

19 THE COURT: Overruled. You may answer that.

20 THE WITNESS: I cleared the arrangement with the
21 State Department before I left, and with the Office of Ethics
22 and the Bureau of Legal Affairs. And they, as is the case,
23 they said there is a cooling off period of one year in which
24 you are not allowed to have contact with your former employer,
25 the Department of State. But in terms of the arrangement,

1 there was no impediment to signing the contract.

2 The Palestinians in Washington are not a particularly
3 highly thought after client, and so yes, there was criticism,
4 there was some Congressional criticism, but not from the State
5 Department.

6 Q. (BY MR. JACKS) But -- All right. It was not so much who
7 you were representing that the criticism was about, but just
8 the way that it came about?

9 A. No, it was criticizing -- The criticism was I think
10 specifically an arrangement as a former Consul General who was
11 working with the Palestinians.

12 Q. That you may have been too close to them? Was that the
13 nature of the criticism?

14 A. I think there was some criticism along those lines.

15 Q. But was there also criticism that you went from being a
16 representative of the government to the next day representing
17 an entity that you had worked with while you were a
18 representative of the government? Was there criticism in that
19 area?

20 A. I don't recall. There may have been.

21 Q. And you did that work, you said, until December of 2006.
22 Is that correct?

23 A. Yes, that is correct.

24 Q. And I don't know that it has been established now, but
25 what are you doing now?

1 A. I am retired.

2 Q. And so you don't do anything right now in terms of
3 earning or generating income. You live off your retirement?

4 A. I do some periodic consulting for different people.

5 Q. And you said that you live in The Hague in the
6 Netherlands?

7 A. That is correct.

8 Q. You testified about your closeness -- the fact that you
9 had worked closely with Yasser Arafat, and that your family
10 had visited his family. Is that correct?

11 A. Yes.

12 Q. When you were the Consul General, did your family live
13 there with you in Jerusalem?

14 A. They did.

15 Q. And what did your family consist of at that time?

16 A. It was my wife and my daughter.

17 Q. How old was she, your daughter, at that time?

18 A. When I arrived in Jerusalem she was three years old, and
19 when I left Jerusalem she was seven.

20 Q. And I think you testified that you took your family to
21 socialize with Yasser Arafat and his family?

22 A. No, I wouldn't put it that way.

23 Q. When did your family visit with his family?

24 A. On December 22nd or 23rd, 1995, my wife and my daughter
25 and I went to Bethlehem where the Israelis had just evacuated

1 the Israeli military and handed it over to the Palestinian
2 Authority. We went to call on the wife of Yasser Arafat, who
3 had just had a baby, and to pay a call on her and congratulate
4 her on the birth of her daughter. And I had I think Arafat,
5 who was in another compound, had heard that I was there, and
6 so he asked us to come say hello to him. So I mean, that was
7 basically the socialization or the socializing.

8 Q. Arafat's wife, what is her first name?

9 A. Her first name is Suha.

10 Q. And did she live in the territories or did she live
11 somewhere else?

12 A. She came to Palestine and lived in Gaza and on occasion
13 the West Bank the years I was there, and then after that I
14 believe she moved to Paris after I left.

15 Q. So she lived in Paris from about what time?

16 A. You know, I am not really sure. I think it is maybe
17 around 2000, 2001, somewhere around there. I don't know.

18 Q. And you said -- Do your wife and daughter live with you
19 in The Hague now?

20 A. I was divorced several years ago.

21 Q. All right. So the woman you are married to now is not
22 the woman that went with you to these functions or this
23 function?

24 A. That is correct.

25 Q. I want to cover some of the -- Let me just specifically

1 address a question that was asked of you by Mr. Dratel. He
2 asked you about an individual who was the Palestinian Attorney
3 General, or the equivalent of the Palestinian Attorney
4 General. Do you recall that?

5 A. I do.

6 Q. Okay. And you said that he was fired from the PA for
7 corruption?

8 A. He was.

9 Q. And was that financial corruption, stealing money?

10 A. Financial corruption.

11 Q. Do you -- Were there in fact -- Was it a known fact or
12 would you consider it a known fact that Fatah and the PA was
13 corrupt?

14 A. I think there certainly was corruption there, and the PA
15 was widely criticized for the corruption.

16 Q. Was there -- Was Yasser Arafat perceived to be corrupt?

17 A. I don't think so, no.

18 Q. Was there -- Do you recall -- Was there a report in
19 Fortune magazine during the time that you were in the Consul
20 General's position that put his net worth at \$300 million?

21 A. I have heard that that was the case. I didn't see -- I
22 haven't seen the report myself.

23 Q. If that were the case, do you have any information about
24 how he would have acquired that kind of fortune?

25 MS. HOLLANDER: Objection, Your Honor. I don't

1 think it is relevant.

2 THE COURT: Mr. Jacks, why is this relevant?

3 MR. JACKS: I will connect it in a moment, Your
4 Honor, in regards to the reasons for the difficulty in the
5 Palestinian territories in terms of where the money --

6 THE COURT: I will let you. Go ahead and ask him,
7 if you are going to connect it.

8 Q. (BY MR. JACKS) Let me just ask you, Mr. Abington, do you
9 have an estimate of how much money -- Let's just start after
10 the Oslo Accords in 1993, do you have any estimate of how much
11 money was poured into the Palestinian Authority from Europe,
12 Japan, the United States, Saudi Arabia, the Gulf countries,
13 how much money was given to the Palestinian Authority to get
14 its government started?

15 A. The United States government under Congressional mandate
16 was not authorized to give money to the Palestinian Authority.
17 The money that the United States had set aside for economic
18 assistance went for specific projects which were implemented
19 by American and sometimes Palestinian contractors, but not --
20 the money did not go directly to the Palestinian Authority.

21 And most of the other donors did the same thing. The
22 money that was raised in various international conferences
23 went for specific projects, often in coordination with the
24 Palestinian Authority but not necessarily directly to the
25 Palestinian Authority.

1 The Saudi government I think, frankly, was concerned
2 about where the money would go, and it, therefore, channeled a
3 lot of its money specifically to different projects.

4 As the financial difficulties of the Palestinian
5 Authority grew, because of the Israeli closure policy, the
6 United States urged other governments, the Saudis,
7 particularly countries in the Gulf, the Saudis, the United
8 Arab Emirates, and others, to give direct budgetary support to
9 the Palestinian Authority. But that was primarily in the
10 years, say, 2002 on.

11 Q. I thought my question was how much money -- Can you give
12 us an estimate about how much money from these sources was put
13 into the Palestinian territories, whether it was through
14 private entities or the Palestinian Authority itself?

15 A. I would say -- I think in the beginning, say 1994 and so,
16 it was in the neighborhood of maybe a billion dollars a year.

17 Q. Billion dollars a year with a B?

18 A. That is correct.

19 Q. Okay. And were there reports or were you aware of
20 reports or complaints by the Palestinian population about
21 Palestinian officials building extravagant homes and buying
22 Mercedes, and doing all these things with money that was
23 coming from these various sources?

24 A. No.

25 Q. You weren't aware of that?

1 A. The complaints was not about money coming from the donor
2 community. They were complaints about monopoly arrangements
3 that had been set up between some of the associates of Yasser
4 Arafat with the government of Israel.

5 Q. Well, and with regard to that, then, so this money that
6 came in, this billion dollars a year, where was it -- where
7 did it go?

8 A. Well, for example, the United States built -- the United
9 States government built an apartment building in Gaza, and it
10 was inaugurated in 1994.

11 Q. What was the budget for that project?

12 A. It was approximately \$30 million, but it was implemented
13 by AID. None of the money went through the Palestinian
14 Authority.

15 Q. I understand. But there were private Palestinian
16 businessmen that would get the contracts to do that. Correct?

17 A. I think in that specific instance there was -- they used
18 Palestinian contractors, but they were regularly audited by
19 the Agency for International Development.

20 Q. Was it -- Let me just lay the groundwork. You have
21 previously given testimony about this matter in other
22 proceedings. Is that correct?

23 A. Yes.

24 Q. Okay. You -- I believe, and it may have been yesterday,
25 but was it your testimony that part of the attractiveness, if

1 you will, of Hamas to certain people was the fact that they
2 were not stealing money; that the money that they took in they
3 didn't spend it on themselves?

4 MS. HOLLANDER: Objection, Your Honor. I don't
5 believe there has been any testimony in that regard.

6 Q. (BY MR. JACKS) I will just ask you, then. Do you agree
7 with what I just said?

8 A. I think that is one factor that led to support for Hamas.

9 Q. With regard to -- You were asked about the term Islamist.

10 A. Yes, sir.

11 Q. Okay. And just so that we are clear, the word is
12 I-S-L-A-M-I-S-T?

13 A. Yes.

14 Q. Okay. And your definition of that word is what?

15 A. I have said that that is someone who is a pious Muslim or
16 someone who has Islam as a central part of their life.

17 Q. Is that -- Could it also be a broader term than that?

18 A. As I said, you know, there has been this dichotomy by
19 people, particularly in the United States over the question of
20 Islam, Islamist, and so forth.

21 Islam has always been a political religion since its
22 inception, and the term Islamist I think is something that
23 arose specifically after the Shaw of Iran was overthrown in
24 1979, and Islam was considered to be or came to be seen by
25 some in the U.S. as a revolutionary threatening religion to

1 U.S. national interests.

2 Q. And the revolutions that you just spoke of, that was the
3 one in which the Ayatollah Khomeini came to power in Iran?

4 A. That is correct.

5 Q. And is Iran an Islamist state now?

6 A. As are others.

7 Q. For example, the Sudan?

8 A. Pakistan.

9 Q. Pakistan?

10 A. Yes, is an Islamic state.

11 Q. Now, an Islamist state in Iran, though, the rulers of the
12 country, the ultimate rulers of the country are the mullahs.
13 Right? The religious figures.

14 A. The Ayatollahs.

15 Q. Yes. And they outrank, if you will, the elected
16 officials?

17 A. Well, the political -- It is a different political theory
18 or system of government. It is fairly unique in Iran. It is
19 not replicated elsewhere in the Islamic world.

20 Q. Are you familiar with a group called the International
21 Crisis Group?

22 A. I am.

23 Q. In Belgium, Brussels?

24 A. And Washington, D.C.

25 Q. Let me just ask you if you agree with these definitions.

1 Islamic, just I-S-L-A-M-I-C, would be entities that are
2 nominally or generically Muslim.

3 A. I would probably make it a little stronger than that. It
4 says nominally or generically. I mean, I think of Islamic as
5 being something that is, you know, a very central part of -- I
6 don't know how to explain it. But Islamic is central.

7 Q. A person can be a Muslim but not be a very observant
8 Muslim. Correct?

9 A. Sure, just like Christians.

10 Q. Right. I mean, they can drink alcohol or they cannot
11 pray or not fast, but they are still Muslims; just maybe
12 perceived by some as not good Muslims.

13 A. It is a degree of how observant you are.

14 Q. Okay. And Islamist, is it your opinion that Islamists
15 are those people that are very adherent to the strictures of
16 the religion?

17 A. The five pillars of Islam.

18 Q. Yes. And let me just ask you if you agree with this
19 definition. Islamist, with the I-S-T, denotes entities or
20 individuals which are self-consciously Islamic and formulate
21 explicit political or ideological objectives on this basis?

22 A. That is what I said--that Islam has been a political
23 religion ever since its inception, so an Islamist is someone
24 where, as I see it, not only are they pious, but their religion
25 is part of their politics.

1 Q. Okay. And let me see if you agree with this phrase.

2 Islamists movements are those that pursue political power in
3 order to promote Islam as the dominant force in government and
4 society?

5 A. Yes.

6 Q. And although they may differ in their interpretation, as
7 a common denominator they share the belief that there should
8 be an application of sharia law?

9 A. I think -- Yes, I agree with that.

10 Q. Okay. And Hamas is an Islamist organization. Is there
11 any question about that?

12 A. No, I don't think so.

13 Q. And I believe you have previously stated that it is a
14 radical fundamentalist organization.

15 A. Yes.

16 Q. What do you mean by that term?

17 A. Well, you know, you talk about Islamist --

18 Q. I am asking, what do you mean by radical fundamentalist
19 organization?

20 A. Organizations that use violence to achieve their
21 objectives.

22 Q. And fundamentalist in regard to what? What is their
23 fundamentalist nature? Fundamental about what?

24 A. Well, I would say fundamentalist in terms of a very
25 strict application of the precepts of Islam.

1 Q. I believe you have also testified -- You are familiar
2 with the Hamas charter?

3 A. Yes, I have read it.

4 Q. And are you familiar with the provisions of the charter
5 that call for the destruction of the state of Israel and its
6 replacement with a Palestinian Islamic state?

7 A. Yes.

8 Q. Are you familiar with the provisions that call for this
9 to be done through jihad?

10 A. Yes.

11 MS. HOLLANDER: Your Honor, I am just going to
12 object that this is beyond the scope of the direct
13 examination. There was no discussion about the Hamas charter.

14 THE COURT: Overrule that objection.

15 Q. (BY MR. JACKS) And are you familiar with the provisions
16 of the charter that say that any negotiations, any peace
17 conferences, peace negotiations, are a waste of time and are
18 contrary to--and I am paraphrasing--but contrary to the goals
19 of Hamas?

20 A. Yes, I am.

21 Q. You talked about on direct examination the fact that the
22 relationship between Fatah or the PLO and Hamas, and you
23 talked about the fact that there are examples where one member
24 of a family will be in one camp and another member of a family
25 will be in another camp. Is that correct?

1 A. Yes, it is.

2 Q. And I believe that you have previously stated that the
3 relationship between Hamas and Fatah would kind of ebb and
4 flow. Is that correct?

5 A. Yes.

6 Q. And that on occasion there would be times that they would
7 have battles, actual military or armed battles with each
8 other. Is that correct?

9 A. Yes, it is.

10 Q. And then there would be times that they would actually
11 attend meetings or ceremonies together?

12 A. Or negotiate with each other.

13 Q. Okay. So it is -- Would you agree that it is a situation
14 in which you cannot always determine -- Let me just ask this.
15 Does the phrase "politics makes strange bedfellows" apply to
16 those two organizations?

17 A. Well, that is your phrase. I would sort of explain it a
18 little differently.

19 Q. Well, let me just ask you a little bit about the
20 background. Now, as I understand your explanation, Fatah is a
21 party, a political party. Correct?

22 A. That's -- Yes.

23 Q. And it is the dominant party in the Palestine Liberation
24 Organization. Correct?

25 A. Yes, it is.

1 Q. And that organization has been around since what? The
2 '60s?

3 A. Yes, that is right.

4 Q. Okay. And that was Yasser Arafat's organization?

5 A. Yes.

6 Q. And it was considered by many people, including the
7 United States, a terrorist organization?

8 A. That is right.

9 Q. And certainly by the Israelis. Correct?

10 A. Yes.

11 Q. And were they the organization responsible for the
12 massacre at Munich of the Israeli athletes?

13 A. Yes, they were.

14 Q. Okay. But they were -- You described them as a secular
15 organization. Correct?

16 A. Yes, I did.

17 Q. And by that you mean they don't -- Separation of church
18 and state? Is that fair?

19 A. No, that is not fair in this context.

20 Q. Okay.

21 A. I would say it is an Arab nationalist movement where
22 religion is not the predominant at the core of what they do.

23 Q. All right. And during its heyday, if you will, the PLO
24 and Yasser Arafat, were they considered kind of a Marxist
25 socialist group?

1 A. Arafat?

2 THE COURT: Mr. Jacks, why is this kind of detail
3 relevant?

4 MR. JACKS: Your Honor, I expect --

5 THE COURT: Approach the bench.

6 (The following was had outside the hearing of the
7 jury.)

8 THE COURT: You have been going 30 minutes on this
9 stuff, and I fail to see where there is any connection. Go
10 ahead.

11 MR. JACKS: Your Honor, the Defense I believe, based
12 on what they did the last time, is going to seek to try to get
13 the jury to infer that because the PA did or didn't do
14 something, that therefore they can infer that this
15 organization was not Hamas and the relationship is not one of
16 strictly, you know -- It is not a situation of black and white
17 where you have Hamas and the PA.

18 Now, this other background information, I am finished
19 with that, but the purpose of this was to help the jury to
20 understand that these groups worked together at times, but
21 that just because the PA would not shut down a committee
22 doesn't mean that it wasn't Hamas, because they would shut
23 them down for a week or two and then reopen.

24 THE COURT: That is where you are going to get
25 there?

1 MR. JACKS: Yes, sir.

2 THE COURT: Let's just see if we can get there a
3 little quicker. We spent a lot of time on that.

4 (The following was had in the presence and hearing
5 of the jury.)

6 MR. JACKS: Your Honor, how long did you want to go?

7 THE COURT: Let's go until about a quarter till.

8 MR. JACKS: Okay.

9 Q. (BY MR. JACKS) You spoke about the concept of zakat.

10 A. Yes, sir.

11 Q. And that that is one of the pillars of Islam?

12 A. Yes.

13 Q. And it is, as you described it, a percentage of earnings.
14 And do you know what percent of earnings is prescribed?

15 A. I believe it is 2.5 percent.

16 Q. And I think you said that -- Well, strike that. I
17 believe you said that Muslims are expected to give that amount
18 at least once a year to less fortunate people. Correct?

19 A. Yes.

20 Q. But it doesn't necessarily mean a zakat committee. Is
21 that correct?

22 A. I think it is up to the individual how he makes the
23 donation, he or she.

24 Q. Okay. So, I mean, it is conceivable that a Muslim in the
25 United States could give to the Salvation Army or to Goodwill

1 or a charity hospital, or he could -- or his next door
2 neighbor as you said. Is that a fair statement?

3 A. I don't know. I mean, you know, I don't know the answer
4 to that. Do Muslims give to the Salvation Army in the U.S.?
5 I don't know.

6 Q. You were explaining to us --

7 A. What I was saying is you can give it to a zakat committee
8 because they have a good feeling for who needs the money on
9 the ground or who needs the assistance, or -- It depends on
10 the individual. You may -- Your next door neighbor may have
11 suffered a great difficulty and needs food or clothing and you
12 may just give that to them. So it can be distributed in
13 different ways. It is not a firm and fast rule how you do it.

14 Q. Okay. That is my point.

15 A. Okay.

16 Q. So the individual, as long as it is to a needy person or
17 organization, that is permissible, as far as you understand?

18 A. Yes.

19 Q. Okay. One of the things that I believe you touched upon
20 was you were being asked about population and that type of
21 thing, and you made -- You testified that there are in
22 fact -- there is a portion of the Israeli population that is
23 Arabs. Correct?

24 A. Yes.

25 Q. And in fact, there are Arab members of the Israeli

1 parliament. Correct?

2 A. There are.

3 Q. You testified about your visits to a hospital, and I
4 believe was it the al-Razi Hospital that you said you went to?

5 A. Among others, yes.

6 Q. Okay. And that hospital is run by the Jenin zakat
7 committee. Correct?

8 A. Yes, my understanding.

9 Q. And when did you go there?

10 A. I believe it was in 1994.

11 Q. And was that an Islamist hospital?

12 A. Well, if it was run by the zakat committee, I guess you
13 could say it was Islamist, but it was open to all Palestinians
14 whether they were Christian or Muslim.

15 Q. Did the Palestinian Authority have hospitals that it
16 operated?

17 A. That was -- The Palestinian Authority on the West Bank
18 did not have the responsibility for operating hospitals until
19 it was established on the West Bank in 1996.

20 Q. Well now, the Oslo Accords were in September of 1993.

21 A. Yes, that is correct.

22 Q. And when did the Palestinian Authority -- When did it
23 come into existence?

24 A. It came into existence after the negotiation in the
25 spring of 1994 of the Gaza Jericho Agreement. And when Yasser

1 Arafat came from Cairo to Gaza in I believe July 1994, that
2 was seen as the establishment of the Palestinian Authority.
3 But its mandate only included the non-Israeli-held portions of
4 the Gaza Strip, plus the city of Jericho. So it had no -- It
5 had no authority over almost all of the West Bank. That did
6 not take place until it started the fall of 1995.

7 Q. Is it fair to say that the Oslo Accords was a staged
8 agreement?

9 A. Yes.

10 Q. I mean, it was to be --

11 A. Implemented in phases.

12 Q. Correct. In other words, you just don't flip a switch
13 and one day you have got one country and the next day you have
14 two.

15 A. Yes, that is correct.

16 Q. All right. So there was this period when it was going to
17 be done in stages, and gradually the plan was that more
18 control would be assumed and taken over by the Palestinian
19 Authority.

20 A. Yes.

21 Q. Okay. And of course one -- Would you agree that one of
22 the principal issues in that agreement was the issue of
23 security?

24 A. Yes, from the Israeli perspective.

25 Q. What about from the Palestinian perspective?

1 A. From the Palestinian perspective it was that the Israelis
2 would stop confiscating land for settlements.

3 Q. I am talking about security.

4 A. Well, you know, it is not all -- It is not one or the
5 other. It was a mutual obligation on the side of each party.
6 The basis -- Excuse me.

7 Q. The agreement called for the Palestinian Authority to
8 create its police departments and to start exercising security
9 over those parts of the area that they were responsible for.
10 Is that correct?

11 A. Yes.

12 Q. And they were to assume responsibility to make sure that
13 there were no attacks or any other actions taken against
14 Israel. Is that correct?

15 A. Yes.

16 Q. You were shown an exhibit, it was a press release, I
17 believe, about aid going to the al-Razi Hospital. Do you
18 recall that one page --

19 A. Yes, I do.

20 Q. -- thing off the internet? And do you know when that
21 happened?

22 A. April 2002.

23 Q. And at that time you were out of the government and were
24 working as a lobbyist or consultant for the Palestinian
25 Authority. Is that correct?

1 A. Yes.

2 Q. And where did you live when you held that position? Were
3 you living in Washington?

4 A. I was.

5 Q. Okay. And you said that you knew the story of that aid.
6 Is that correct?

7 A. Yes.

8 Q. Were you aware that that -- And that aid was actually
9 medical supplies as opposed to cash. I mean, it was medical
10 supplies. Correct?

11 A. Yes.

12 Q. And were you aware that that was actually surplus
13 supplies that were supposed to go somewhere else but then they
14 were not needed there and then were diverted to the al-Razi
15 Hospital?

16 A. That happens all the time.

17 Q. I know. But I am asking you as far as this instance --

18 MS. HOLLANDER: Your Honor, he is trying to answer
19 the question and he keeps cutting him off.

20 MR. JACKS: He says it happens all the time.

21 Q. (BY MR. JACKS) My question was, were you aware with that
22 with regard to this incident.

23 THE COURT: Okay. Can you answer that question?

24 THE WITNESS: I was not aware it was diverted from
25 other programs.

1 Q. (BY MR. JACKS) You were asked again to go back to some
2 of the questions you were asked about the demographics, if you
3 will, of the territories, and you said that the population of
4 Gaza, for example, is a little over 1 million?

5 A. Yes.

6 Q. And you said that the average size of the family there is
7 seven to eight people?

8 A. Yes.

9 Q. Okay. And are most families there fairly large by
10 Western standards?

11 A. Yes.

12 Q. Okay. Does that contribute to the degree of need
13 there--the fact that they are large families?

14 A. Well, I mean, it is an economically very depressed area.

15 Q. I understand.

16 A. And so obviously if you have more mouths to feed, it is
17 much more difficult if you don't have a job and if you are not
18 able to earn a living.

19 Q. Do some men have more than one wife?

20 A. I think that is pretty rare in Palestinian society. I
21 don't know of any Palestinian who has more than one wife.

22 Q. But obviously, would you agree, it is easier to feed four
23 kids than it is eight kids?

24 A. Sure, yes.

25 Q. But that is a factor that contributes to the situation

1 there. Is that correct?

2 A. To the difficulty of feeding a family?

3 Q. To the degree of whatever the conditions are there in
4 terms of the poverty or the need.

5 A. Well, the poverty is caused by people unable to work.
6 And whether you have a family or four or a family of eight, if
7 you are not able to work you are in a very difficult position.

8 Q. You were asked about the deportation in 1992. Correct?

9 A. Yes, sir.

10 Q. That was before you got there to -- You were in Pakistan
11 at that time. Is that correct?

12 A. Yes, sir, I was.

13 Q. And I believe you testified that there were--I think I
14 wrote this down correctly--some attacks by Hamas that
15 precipitated that action by the Israeli government. Is that
16 correct?

17 A. There were attacks which I think resulted in the deaths
18 of six Israeli soldiers and policemen, which preceded the
19 deportation of these individuals.

20 Q. And then you specifically mentioned that there was an
21 Israeli policeman or soldier that was kidnapped and held -- Do
22 you know what the demands of the kidnappers were?

23 A. His name was Nissim Toledano. He was an Israeli
24 policeman. And the kidnappers were trying to get the Israeli
25 government to release prisoners, Palestinian prisoners.

1 Q. Which one?

2 A. Which prisoner?

3 Q. Yes. Was there one in particular?

4 A. Not that I am aware of.

5 Q. You are not aware that they demanded the release of
6 Sheikh Yassin?

7 A. In that specific one?

8 Q. Yes.

9 A. No, if I -- I am not aware. I don't recall that.

10 Q. Well, are you aware that Hamas claimed responsibility for
11 this kidnapping?

12 A. Yes. That is what I said. They did.

13 Q. All right. And again, it was not just that event, but I
14 believe you testified that there were, plural, attacks that
15 precipitated this deportation.

16 A. Yes.

17 Q. Is that correct?

18 A. Yes. That is right.

19 Q. You testified that these individuals were taken and
20 dropped off across the Lebanese border, and you testified that
21 the Lebanese government would not let them go anywhere. Is
22 that what your testimony was?

23 A. Yes, it was.

24 Q. And then you said there was this international outrage
25 about what the Israelis had done. Is that correct?

1 A. Yes. It was taken to the United Nations and --

2 Q. Okay. Was there any outrage at the Lebanese for not
3 letting them leave or go somewhere else?

4 A. The Lebanese were already hosting hundreds of thousands
5 of Palestinian refugees. They are a sovereign country.

6 Q. Isn't it true these individuals refused to go anywhere
7 else?

8 A. The Lebanese government refused to let them leave that
9 area because they felt that Israel had illegally, and contrary
10 to international law and the Geneva convention, had illegally
11 deported them.

12 Q. Isn't it true, though, that those deportees purposely --
13 They chose to stay there. Their choice was either, "We go
14 back to Israel or we stay here"? Wasn't that the position
15 they took?

16 A. I don't know.

17 THE COURT: Let's go ahead and take the lunch break.
18 Be back at 2:00.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: We will be in recess until 2:00.

21 (Lunch recess.)

22 THE COURT: Mr. Jacks?

23 MR. JACKS: Thank you. May I proceed?

24 THE COURT: Yes, sir.

25 Q. (BY MR. JACKS) Mr. Abington, you testified about what

1 has been referred to as the Hebron massacre, and that was the
2 event that happened in February of 1994. Is that correct?

3 A. Yes, it is.

4 Q. When this Israeli-American walked into this mosque and
5 started killing men.

6 A. Yes. That is correct.

7 Q. Correct?

8 A. Yes.

9 Q. And you were asked what did the Israeli government do
10 after that, and you said they imposed a curfew on the town.

11 A. Yes.

12 Q. Is that correct?

13 A. Yes.

14 Q. You were not asked what happened between the massacre and
15 the curfew, but in fact there were riots. Is that correct?

16 A. No, I don't believe that there were riots.

17 Q. There was no reaction by the community to this massacre
18 or killing?

19 A. I think obviously Palestinians were incredibly upset
20 about it, but I don't recall that there were riots.

21 Q. Were there violent confrontations that took place between
22 individuals?

23 A. You know, I honestly can't remember.

24 Q. This man that committed this massacre, what happened to
25 him?

1 A. He was killed. He was bludgeoned to death with a fire
2 extinguisher in the mosque.

3 Q. By the other bystanders?

4 A. By the worshippers, yes.

5 Q. And were you privy to or were you aware that Yitzhak
6 Rabin, the Prime Minister of Israel, called Yasser Arafat and
7 condemned this act as a crazy criminal act?

8 A. Yes, I was aware of that.

9 Q. I want to talk to you a little bit about your testimony
10 regarding zakat committees. As I understand your testimony,
11 you did not receive any information from the U.S. government
12 regarding these zakat committees as to whether they were or
13 whether they were not controlled by Hamas. Is that correct?

14 A. I asked before making these visits, "Am I going to run
15 into Hamas people there," and, you know, "We need to check
16 this out." And the response I got was, "No, they are okay."

17 Q. All right. And this is from your security people?

18 A. It is from the staff of the consulate.

19 MS. HOLLANDER: Your Honor, may we approach?

20 THE COURT: Yes.

21 (The following was had outside the hearing of the
22 jury.)

23 MS. HOLLANDER: I did not want my witness walking
24 into something that he is not allowed to say, and this is
25 where we are going with this question.

1 MR. JACKS: Your Honor, he knows where he can and
2 can't know. I am just trying to find out -- I didn't --

3 MS. HOLLANDER: He is asking --

4 MR. JACKS: First of all, his question was
5 non-responsive, and then he goes into this, "I asked am I
6 going to run into any," which sounds like a conversation he is
7 having. And I was asking him, "Are you talking about with
8 your security people?" This doesn't sound like he is getting
9 a briefing or reading a report. It sounds like, "Am I going
10 to be running into any Hamas people here?" And it is a little
11 -- In fact, it is a little different from saying, "Are these
12 committees controlled by Hamas?" He is asking, "Am I going to
13 be running into any Hamas" --

14 MS. HOLLANDER: Before he answers, I would like
15 guidance by Mr. Broxmeyer.

16 THE COURT: If he can come up.

17 MR. DRATEL: Monday we were told the specific
18 protocol with specific --

19 THE COURT: I understand that, but we discussed it
20 yesterday -- He asked for a hearing, and we discussed about
21 having a cross examination, so that is what this is about. Go
22 ahead.

23 MR. JACKS: You know, my question was basically
24 patterned after Ms. Hollander's -- In fact, I asked her before
25 he even started this morning, "Is his answer going to be that

1 basically he didn't receive any information one way or the
2 other," and that was the answer I was expecting him to say is
3 no. So now he goes off into this thing about, "Well, I asked
4 before" --

5 THE COURT: I understand that. But we obviously
6 can't go into an area just because he opened it up.

7 MR. JACKS: I know. He has given an answer contrary
8 to what she told me he was going to say.

9 MS. SHAPIRO: It doesn't sound like an oral
10 conversation with just casual people that he has asked -- It
11 does not sound like it would implicate our issue, but --

12 THE COURT: He asked was it your security people,
13 that that wouldn't implicate anything, would it?

14 MS. HOLLANDER: That is my question.

15 THE COURT: The question that Mr. Jacks asked about
16 "Were you hearing this from your security people?" Does he
17 know what -- I don't know what that is. I am assuming he
18 knows.

19 MR. JACKS: It is my understanding they traveled
20 with regional security officers.

21 THE COURT: The State Department?

22 MR. JACKS: The State Department.

23 MR. BROXMEYER: So am I understanding it is
24 something like bodyguards or something like that?

25 THE COURT: I don't know.

1 MR. JACKS: I don't know what he --

2 THE COURT: Is that what you are talking about
3 security people?

4 MR. JACKS: That is what I was asking him about,
5 because the way he framed the answer was, "I asked my people
6 am I going to be running into any Hamas people?" And you
7 know, that is the way I took it. But again --

8 MS. SHAPIRO: He should be educated enough for Ms.
9 Hollander to know not to say --

10 THE COURT: Well, it is from his job, too.

11 MR. DRATEL: But the problem is is that now we have
12 opened it up, we, the government, and they opened it up to
13 something more than the Government to answer the question.
14 Now he thinks he should be asked specifically. If he is going
15 to ask about specific things and leave one out, that impairs
16 us. We were willing to live with this notion that both sides
17 were limited to the government at large and not specific
18 elements of the government. Now they want to do it their way
19 and we can't.

20 THE COURT: Counsel, you are getting off on areas we
21 aren't even there yet. We discussed specifically that he was
22 going to ask some specific questions to see where he got his
23 information, because we didn't have that hearing, and that is
24 what I wanted to do yesterday. Where this goes, other than we
25 don't want to go where we can't go, but other than that he is

1 entitled to ask. If it opens up some areas, we will deal with
2 that later. Nobody is saying you are not going to get to go
3 into that.

4 MS. HOLLANDER: My concern, which I wanted to ask
5 Mr. Broxmeyer, is the question was, "Did you learn this from
6 your security people?"

7 THE COURT: I think that is what he asked.

8 MS. HOLLANDER: That is right. And I don't know
9 whether -- what Mr. Abington thinks. I mean, when I heard
10 that, I don't know -- Maybe if you could -- And let me ask for
11 some guidance from you, too. If you could focus it like, "Did
12 you learn this from your bodyguards in the State Department,"
13 or something really specific.

14 MR. JACKS: I am also concerned that he is giving an
15 answer contrary to what she told me he would say.

16 THE COURT: All you can do is ask, but just make
17 sure you try to make it as narrow to where we don't go where
18 we don't need to go. But everybody knows, including I think
19 the witness. I think that is all we can do is just frame your
20 questions.

21 MR. BROXMEYER: This doesn't relate to the
22 documents. Right? This goes along with "When you were told
23 by your people"?

24 MS. HOLLANDER: Right.

25 MR. BROXMEYER: So it is not really our issue.

1 THE COURT: Not anything you were concerned about?

2 MR. BROXMEYER: No, as long as we were talking about
3 the briefings. I think at the beginning, "You were told not
4 to deal with Hamas," that is where I thought this --

5 MS. HOLLANDER: I am just concerned now going into
6 specific agencies. That is what concerns me.

7 THE COURT: Well, I think you are entitled to ask
8 your question and we will go from there.

9 (The following was had in the presence and hearing
10 of the jury.)

11 Q. (BY MR. JACKS) Just to try to clarify what your answer
12 was, you said that before you would go to these meetings, you
13 would ask your, I don't remember if you said your security
14 people or your people "Am I going to meet any Hamas
15 individuals at this meeting."

16 A. I asked my staff, yes.

17 Q. And when you talk about your staff, are you talking about
18 the security officers or bodyguards that travel with you?

19 A. No. They wouldn't have that knowledge.

20 Q. And let me again go back to me question that you did not
21 receive any information that affirmatively told you that these
22 zakat committees were not controlled by Hamas. Is that
23 correct?

24 A. Affirmative information that the zakat committees were
25 not controlled by Hamas?

1 Q. Correct. You were never told that.

2 A. I was never told that they were controlled by Hamas.

3 Q. And conversely, you were never told that they are not
4 controlled by Hamas.

5 A. I guess that would be correct.

6 Q. And in fact, you have stated previously that you -- I
7 think you may have used the term "we," that we didn't
8 understand how Hamas operated, we didn't understand how their
9 decisions were made, that we just -- You didn't know anything
10 about that aspect of how they operated. Do you recall giving
11 that testimony?

12 A. What I would say is we didn't have a clear understanding.
13 We had some understanding of what they did and how they
14 operated; but to have absolute clear understanding of what
15 they did, we did not because we weren't allowed to deal with
16 them.

17 Q. Let me see if I can specifically focus --

18 MS. HOLLANDER: Tell me the page.

19 MR. JACKS: Just a second. It would be page 158 and
20 159.

21 Q. (BY MR. JACKS) Do you recall being asked the question
22 previously, "Can you explain your understanding of how Hamas
23 is structured?" And giving the answer, "There were charities,
24 non-governmental organizations that were widely believed to be
25 Hamas organizations, and I think Hamas would create some of

1 them. They were responsible for distributing assistance for
2 poor people, for running schools, things like that. There was
3 a military wing and a political leadership wing that we had
4 very, very little knowledge of. We did not understand how it
5 operated. We did not understand how decisions were made. We
6 did not understand how Hamas leaders on the West Bank and Gaza
7 interacted with each other." Do you recall making that
8 statement?

9 A. Yes, I do.

10 Q. In addition, have you also stated that you were not made
11 aware -- when you were working there as the Consul General,
12 that in that position you were not in the loop or made aware
13 of what may have been learned in ongoing investigations? That
14 was something that was not -- you were not privy to, you and
15 your staff. Is that correct?

16 A. You mean by the Justice Department?

17 Q. Whoever--the FBI, the Justice Department, other agencies.
18 You were not privy to those ongoing investigations.

19 A. That is correct.

20 Q. And is it a fair statement that the materials that had
21 been presented in this case, the search warrant materials, the
22 videotapes, the intercepted calls, all of the matters that
23 have been presented in this case, you did not have that at
24 your disposal and you were not privy to that at the time that
25 you were there?

1 A. That is correct.

2 Q. You did testify, and I believe during direct examination
3 yesterday or today actually, that you do know and did know
4 that Hamas did operate charities and non-governmental
5 organizations as you called them, and was running schools and
6 had medical clinics and that type of thing?

7 A. Yes.

8 Q. Okay. Can you name -- Let me back up for a second. What
9 is the difference between a zakat committee and a charitable
10 organization?

11 A. A zakat committee is religious in the sense that, as I
12 stated earlier, zakat is one of the five pillars of Islam. It
13 is a relatively informal organization. It is audited and has
14 oversight from the Palestinian Ministry of Awqaf or waqf, as
15 well as the Palestinian Ministry of Social Welfare.

16 A charitable society could be secular, Christian,
17 Islamic. It has to be licensed by the Ministry of Interior.
18 It is audited and overseen by the Palestinian Ministry of
19 Social Welfare. And depending on the type of work done by the
20 charity, other ministries might be involved in its oversight
21 as well.

22 Q. What -- Are you able to name the zakat committees or
23 charitable organizations that Hamas controlled?

24 A. Well, I believe al-Salah in Gaza was pretty well-known as
25 a Hamas organization.

1 Q. Any others?

2 A. Well, I can't remember. There was another one in Gaza,
3 but I don't remember the name of it.

4 Q. How about in the West Bank?

5 A. In the West Bank -- The situation was different in the
6 West Bank in the sense that because the Israelis had a
7 presence there --

8 Q. I am sorry. If I could interrupt you. I just would like
9 you to name the ones that you know or remember.

10 A. In the West Bank?

11 Q. Yes.

12 A. I am sorry. I can't give you a name there.

13 Q. How about -- What about zakat committees? Do you know of
14 any zakat committees -- can you name any zakat committees that
15 Hamas controlled?

16 A. I stated previously that I didn't have any information
17 when I was a Consul General that Hamas controlled any zakat
18 committees in the West Bank.

19 Q. Okay. You said that you had -- I am sorry. It wasn't
20 clear to me. Have you been to zakat committees or simply met
21 with people who were from zakat committees?

22 A. Both.

23 Q. And can you tell us which ones you have been to?

24 A. I have been to zakat committees in Ramallah, in Nablus,
25 in Jenin, in Hebron, and I believe in Gaza City.

1 Q. I am sorry. I was not writing that fast. Ramallah,
2 Nablus, Jenin?

3 A. Hebron.

4 Q. Hebron.

5 A. Gaza City.

6 Q. Okay. Any others that you can recall?

7 A. Not specifically.

8 Q. All right. Now, the Hebron zakat committee, that is not
9 the same as the Islamic Charitable Society of Hebron, is it?

10 A. No.

11 Q. Okay. And from -- For example, that USAID document that
12 you saw this morning, and it had a long -- several pages of an
13 organization. There are hundreds of zakat committees and
14 charitable organizations in the West Bank. Correct?

15 A. Yes.

16 Q. And in fact, there are, if not dozens, but hundreds of
17 zakat committees in the West Bank. Is that correct?

18 A. No, I wouldn't say so.

19 Q. There is certainly more than one in different areas.
20 Correct?

21 A. There are zakat committees organized according to the
22 districts in the West Bank, which is set up by the
23 Palestinians. Well, actually it comes from Ottoman times.
24 There are approximately eight or nine different districts.
25 Each district will have sort of a zakat committee. There

1 might be smaller zakat committees that form clusters in the
2 West Bank to become a larger zakat committee.

3 Q. So you are saying that there is one main zakat committee
4 in each district?

5 A. Yes.

6 Q. And in other villages or branches or whatever, that those
7 are not separate from that zakat committee?

8 A. As I understand it, in a small village it will report to
9 the zakat committee in that particular district, which is
10 overseen, as I said, by the Palestinian Ministry of Social
11 Welfare and the Ministry of Awqaf.

12 Q. What was the occasion of -- I will just take them in the
13 order you gave them. What was the occasion of you going to
14 the Ramallah zakat committee?

15 A. When I would go on these trips, and I would go frequently
16 out around the West Bank and Gaza, I would meet with a variety
17 of Palestinian organizations, both secular and religious, and
18 I would talk to them about the work that they did and, you
19 know, what kind of problems they were encountering, what kind
20 of successes they had, et cetera. And normally on my trips
21 around the West Bank if I hadn't met with a local zakat
22 committee, I would stop by and have a chat with them.

23 Q. Let's take the Ramallah zakat committee next. Who did
24 you meet with?

25 A. I don't recall the names of the people, but I met with

1 the head of the committee as well as members of his staff.

2 Q. When you say the head of the committee, what title would
3 that be? Who was the head, as far as you believed?

4 A. You know, 15 years ago I can't remember the names of the
5 people that I met with.

6 Q. And you said -- You had only been there one time to the
7 Ramallah zakat committee?

8 A. I think it was only once.

9 Q. And Nablus, how many times did you go there?

10 A. I think twice.

11 Q. And Jenin?

12 A. I only recall having been there once.

13 Q. Hebron zakat committee, how many times did you go there?

14 A. Once or twice.

15 Q. And with these -- As far as Nablus, do you know who you
16 met with there?

17 A. I met with Dr. Muayawa al-Masri.

18 Q. Can you spell that?

19 A. M-u-a-y-a-w-a A-L-M-A-S-R-I. And I met with several
20 other individuals. I think I met with a Mr. Kanan. I can't
21 recall the names.

22 Q. Do you know what position they held?

23 A. They don't -- I mean, when I met with them they didn't
24 say, "This is the accountant. This is the vice president.
25 This is the president of the zakat committee." It is just

1 these were members of the committee.

2 Q. And Jenin, who did you meet with?

3 A. Again, I do not recall the names.

4 Q. When you would -- I believe you testified this morning
5 that when you would finish that you would go back and make a
6 report and send the report in or a cable or whatever back to
7 Washington. Did you do that after these meetings?

8 A. I don't recall. I mean, you know, sometimes -- I didn't
9 do a cable on every single visit I made, because what I heard,
10 what was told to me may or may not have been relevant or
11 significant. So it would only be -- It is not like I would go
12 to a zakat committee and send a telegram back to the State
13 Department saying, "I visited this zakat committee and this is
14 what they said." It is just not the way we operate.

15 Q. Okay. I am just trying to be clear in terms of you -- I
16 was left with the impression you would go out in the community
17 and talk to these people, and then kind of take the results of
18 that and at some point send it back to Washington.

19 A. Sometimes I would. Sometimes I wouldn't. For example,
20 going to Jenin, I would say, you know, "These are the
21 impressions we have. People are skeptical about the Oslo
22 process. There are things that the economic situation is bad,
23 the infrastructure is bad, and so forth." I mean, those were
24 the kind of cables that we would do. It would not be focused
25 specifically on something as finite as a zakat committee.

1 Q. Going back to your testimony about charities that you
2 were aware of that Hamas controlled, and I may have asked you
3 this but I didn't write it down as far as what charities do
4 you recall that Hamas controlled?

5 A. I mentioned al-Salah in the Gaza Strip, and there is -- I
6 can't remember the exact name. There is another one, the
7 Islamic something. I just can't remember.

8 Q. The Islamic Relief Committee?

9 A. I think so. I am not sure.

10 Q. Do you recall previously making a statement that the
11 Islamic Relief Committee was one of the organizations that was
12 controlled by Hamas?

13 A. I just don't remember.

14 Q. Do you know what the Islamic -- Do you know where the
15 Islamic Relief Committee was located?

16 A. I think in Gaza, but I am not sure.

17 Q. Were you aware that the Islamic Relief Committee had been
18 closed down by the Israeli government for being Hamas?

19 A. I don't recall that.

20 Q. Do you recall being asked this question? And maybe this
21 will refresh your memory. You were being shown a document,
22 and in that document it says, "Sir, if we can go to the top of
23 the document, you see on the top left it says the Islamic
24 Relief Committee."

25 And you said, "Yes."

1 And do you recall being asked, "And do you know what that
2 was?"

3 And your answer was, "I think it is a group controlled by
4 Hamas. I am not sure."

5 Do you recall giving that testimony?

6 A. If you say if that is from the transcript.

7 Q. Would you like me to show it to you?

8 A. No, I will take your word for it.

9 Q. And you said that you knew the al-Salah organization in
10 Gaza was controlled by Hamas, and that organization has been
11 closed. Are you aware of that?

12 A. I don't know if it has been closed.

13 Q. I am sorry?

14 A. I think that it was designated by the Justice Department
15 or by the Treasury Department, but I don't know that it is
16 closed.

17 Q. And are you familiar with the Islamic Society of Gaza?

18 A. I just can't recall.

19 Q. How about the Islamic Complex of Gaza?

20 A. I know the name. I think that Sheikh Yassin was one of
21 the founders of it.

22 Q. And would you agree or do you accept that those are
23 organizations that are Hamas organizations?

24 A. Yes, I would.

25 Q. You talked about I guess the governmental organizations

1 or bodies that are over zakat committees, and I want to ask
2 you specifically about the Jenin zakat committee and -- Let me
3 back up, first of all. Again, if you would, just to make sure
4 we are on the same page, what governmental branch or body
5 under the Palestinian Authority would have supervised the
6 Jenin zakat committee?

7 A. The Ministry of Awqaf and the Ministry of Social Welfare.

8 Q. And did those -- Do you know, in the structure of the
9 Palestinian Authority were there like regional individuals
10 that were responsible for that branch of the government?

11 A. Yes, there would be regional, and they in turn were
12 supervised by the ministries in Ramallah.

13 Q. Okay. And specifically, with regard to the Jenin zakat
14 committee, do you know who was in charge of that committee?

15 A. No.

16 Q. At any time you don't know who was in charge of that?

17 A. Of the zakat committee?

18 Q. Right.

19 A. I may have known when I was in Jerusalem, but as of now I
20 don't recall that detail.

21 Q. And are you familiar with a man by the name of Mohammed
22 Fuad Abu Zeid?

23 A. It doesn't ring a bell.

24 Q. Would you have been aware of the fact that he was a part
25 of the waqf, at least the Jenin district he was a part of the

1 governmental organization that supervised zakat committees in
2 that region?

3 A. I probably wouldn't have gotten into that level of
4 detail, so no, I don't think I would have known that.

5 Q. Okay. And are you aware of the fact that he has been
6 identified as a Hamas leader by Khalid Mishal?

7 A. No.

8 Q. Okay. Have you looked into or done anything to
9 investigate who runs these committees, who the individuals are
10 that control these committees, and what their background might
11 be?

12 A. You mean in terms of when I was a Consul General?

13 Q. Well, in terms of before you come in here and render an
14 opinion, have you done anything to look and see if there is
15 anything that might affect your opinion?

16 A. Based on the information I received when I was a Consul
17 General from various offices within the consulate, the
18 information I received was that these were not controlled by
19 Hamas and, therefore, there was no prohibition against me
20 meeting with them.

21 Q. I am sorry. You are stating that you received
22 affirmative information that these were not controlled by
23 Hamas, and it was my understanding you said --

24 A. No, I would rephrase it. That there was no -- Well, the
25 way I would ask the question, "Are there going to be problems?

1 If I go and meet with any of these various committees, am I
2 going to run into Hamas people?" And the information I
3 received was no.

4 Q. You know who Khalid Mishal is.

5 A. I do.

6 Q. Okay. And would you consider him an authoritative source
7 if he is naming off people who are members of Hamas and
8 leaders of Hamas? That is my question. Would you consider
9 him an authoritative source?

10 A. I suppose, if he so identified people.

11 Q. Okay. So if he identifies individuals that are leaders
12 of these zakat committees as Hamas, would that affect your
13 opinion about whether or not these zakat committees are
14 controlled by Hamas?

15 A. I would say that there is a difference between having a
16 Hamas member on a zakat committee and being controlled by
17 Hamas, and I believe that the zakat committees are not
18 controlled by Hamas.

19 Q. You worked closely with the Palestinian Authority,
20 obviously. In fact, that was really your primary
21 responsibility was to be the U.S. representative to the
22 Palestinian Authority. Is that correct?

23 A. Yes, it is.

24 Q. I want to direct your attention --

25 MR. JACKS: Mr. Lewis, could you bring up

1 Palestinian Authority No. 2? And just leave it there for a
2 second.

3 Q. (BY MR. JACKS) Have you seen this document before, Mr.
4 Abington?

5 MS. HOLLANDER: Your Honor, may we approach?

6 THE COURT: No, not yet, counsel.

7 THE WITNESS: I don't know if I have or not.

8 Q. (BY MR. JACKS) And are you able to read the writing at
9 the very top?

10 A. The handwriting?

11 Q. Yes.

12 A. I am not sure, but it may be Yasser Arafat's signature.

13 Q. And how about just the other writing there? Can you read
14 the title in the block there where the cursor is?

15 A. It says, I don't know, "From the desk," or "From the work
16 of" -- I am not -- I have a hard time reading cursive Arabic
17 like this.

18 MR. JACKS: Let's just go to the English
19 translation, then. It will be page 4 of the exhibit, Mr.
20 Lewis.

21 Q. (BY MR. JACKS) And do you see the title now in the
22 block?

23 A. Yes. "Who is financing Hamas."

24 Q. And does this document appear to have come from the
25 Palestinian Authority going back to what you saw on the first

1 page? You said it appeared to be Yasser Arafat's signature.

2 A. I don't know if it was or not. I have a couple of pieces
3 of paper with his signature. Maybe it was him; maybe not. I
4 am not quite sure.

5 Q. And let me ask -- It talks there -- Do you see where it
6 talks about Hamas' foreign finance sources?

7 A. Yes.

8 Q. And the three sources for Hamas funds that are listed
9 there?

10 A. I see, yes.

11 Q. Okay. And you see --

12 MR. JACKS: Mr. Lewis, let me ask you to go to where
13 it says "the Movement" there in the middle of that large
14 paragraph.

15 THE WITNESS: Yes, I see that.

16 Q. (BY MR. JACKS) Do you see that "The Movement controls
17 daycare centers, schools, sport rinks, medical clinics, and
18 mosque committees through three institutions, thus interlacing
19 religious political and social affairs," and it goes on to
20 talk about, "It is not a coincidence that Hamas officials tend
21 to search for suicide operatives among their schools,
22 students, or their sports groups and teams." And it talks
23 about "Hamas paying monthly stipends to families of martyrs
24 and the wounded." And talks about "Hamas is trying to pull
25 the rug from under the Palestinian Authority of Yasser Arafat

1 who aspires to establish his state."

2 A. Yes, I see that.

3 Q. All right.

4 MR. JACKS: If we can go to the next page, please.

5 Q. (BY MR. JACKS) And do you see the references to " Hamas
6 financial resources worldwide:" And then, "No. 1, United
7 States of America:" Below that "Texas: The Islamic
8 Association for Palestine and the Holy Land Fund"? Do you see
9 that?

10 A. I do.

11 Q. And below also it has "Virginia: United Association for
12 Studies and Research." Do you see that?

13 A. Yes.

14 Q. In terms of the institutions at the bottom --

15 MR. JACKS: Would you go to the third page, Mr.
16 Lewis?

17 Q. (BY MR. JACKS) And it talks about where the Hamas money
18 is spent, it says, "There are three major Islamic institutions
19 concerned with all aspects of social affairs." And talks
20 about, "Services, healthcare centers, and clinics, education
21 and sport." Do you see that?

22 A. Yes.

23 MR. JACKS: Mr. Lewis, if you could, post Government
24 Exhibit Palestinian Authority No. 9.

25 Q. (BY MR. JACKS) And Mr. Abington, can you identify or do

1 you recognize the letterhead for this particular page?

2 A. It is the General Intelligence Organization of the
3 Palestinian Authority.

4 MR. JACKS: And if you could go to the next page,
5 please.

6 MS. HOLLANDER: Your Honor, may we approach?

7 THE COURT: No.

8 Q. (BY MR. JACKS) Do you see the English translation, Mr.
9 Abington?

10 A. Yes, I see that.

11 Q. All right. And do you see it is addressed to the
12 Director of Intelligence Service of the Ramallah and Al-Bireh
13 Governorate, and "Subject: "The zakat committee," and gives
14 an address. And does that appear to be talking about the
15 Ramallah zakat committee?

16 A. Yes.

17 Q. And it talks about financing. Its says foreign support
18 from several countries, and then it talks about, "This
19 committee supports families of detainees and families of
20 deportees. It financially supports needy students and
21 distributes money and clothes to the orphans and the poor."
22 And then it goes on to say, "Officials and members of this
23 community are associated with Hamas movement and some of them
24 are activists in the movement." And then it has a signature
25 from a Major Khalid Abu-Yaman, Director of Operations. Do you

1 see that?

2 A. I do.

3 Q. I take it you were not privy to this document?

4 A. No.

5 Q. Were you ever advised of these facts or facts such as
6 this by the Palestinian Authority?

7 A. No.

8 Q. Now, the Palestinian Authority would on occasion close
9 certain zakat committees and charitable organizations. Is
10 that correct?

11 A. Yes.

12 Q. And that would be in response to suicide bombings or
13 terrorist attacks.

14 A. Yes.

15 Q. And the suicide bombings and terrorist attacks for the
16 most part would have been terrorist attacks committed by
17 Hamas. Is that correct?

18 A. During the period I was Consul General, Hamas or Islamic
19 Jihad.

20 Q. And would you agree that under the terms that the
21 Palestinian Authority would close those committees, because
22 they were pressured or urged to do so by the United States and
23 the Israelis?

24 A. Yes.

25 Q. And the committees that would be closed would be the

1 committees that are supposed to be connected to Hamas. Is
2 that correct?

3 A. Maybe. Maybe not.

4 Q. Well, so are you saying, then, that Chairman Arafat would
5 close some unrelated committees as opposed to the committee
6 that were controlled by Hamas?

7 A. I will give you an example. During the suicide bombings
8 in Jerusalem and Tel Aviv in the spring of 1996, I went down
9 on instructions from the State Department to really press
10 Arafat that he had to take action against people carrying out
11 these suicide bombings, and that he had to deal with mosques
12 and other places where Hamas might be operating or planning or
13 congregating. We never gave any specific names to Arafat of
14 things that he should close down. I don't know if the
15 Israelis did or not. But to the best of my knowledge the U.S.
16 government did not.

17 Q. Okay. So the U.S. government left it to him to close
18 down the proper committees, whether they are zakat committees
19 or charitable organizations.

20 A. Yes, I would say that is correct.

21 Q. So he would know which ones were Hamas or which ones were
22 not?

23 A. That is assuming he closed them on that basis.

24 Q. And his closure would not last. Is that correct?

25 A. Often he would close something down or he would arrest

1 someone, and after a period of time he might release that
2 person or allow the office to reopen.

3 Q. You stated that you are retired, but do you still keep up
4 with events in the Middle East?

5 A. Yes, I do.

6 Q. And are you aware of the fact that the Palestinian
7 Authority in December of 2007 closed all of these zakat
8 committees and removed their leaders?

9 A. Yes.

10 Q. And replaced them?

11 A. Prime Minister Fayyad told me that.

12 Q. So -- And are you aware that the principal reason for
13 that was because of the fact that they were controlled by
14 Hamas?

15 A. That is not what he told me.

16 Q. All right. And do you know what Hamas' reaction was when
17 these committees were closed down and their membership
18 removed?

19 A. I think they saw it as a challenge, part of the ongoing
20 battle between Hamas and Fatah.

21 Q. And in fact they -- did they threaten the Palestinian
22 Authority or Fatah that they shouldn't do that?

23 A. There has been an ongoing struggle which occasionally
24 breaks into absolute armed conflict between the Palestinian
25 Authority and Hamas more or less since Hamas won the elections

1 in 2006.

2 Q. I just want to go back to something that you testified
3 about on direct examination.

4 MR. JACKS: Mr. Lewis, could you post or show Nablus
5 Zakat No. 5, I believe?

6 Q. (BY MR. JACKS) I believe you testified that this was
7 what -- you described it as a day planner or a type of a
8 calendar. And I believe Ms. Hollander told you this is
9 something that was taken from the Nablus zakat committee. Do
10 you recall that?

11 A. Yes.

12 Q. And are you -- Is your Arabic good enough to read who put
13 out this day planner? Do you see anywhere?

14 A. In the bottom it looks like it is done by Hamas, Harakat
15 al-Muqawaman al Islamiyya, Nablus, the Governorate of Nablus.

16 Q. And are you familiar with an organization called the
17 Islamic Bloc?

18 A. No.

19 Q. Are you aware of Hamas organizations within colleges and
20 universities, what name it goes by?

21 A. Well, I know that Hamas has student organizations, and
22 these universities every year carry out student elections and
23 they are hotly contested between Hamas, Islamic Jihad, and
24 Fatah.

25 Q. Do you know the name of the Hamas party in these student

1 elections?

2 A. No.

3 Q. And just --

4 MR. JACKS: Mr. Lewis, can you go to the picture in
5 the bottom right corner?

6 Q. (BY MR. JACKS) And I think you testified that you
7 thought that was a Palestinian ambulance?

8 A. Yes, it appeared to me to be so.

9 Q. And you are sure that is not an Israeli ambulance?

10 A. Well, I can't tell. Now that you mention it, when you
11 look at the right hand side there appears to be English
12 writing, so it could be. I don't know. You see English
13 writing on Palestinian ambulances as well as Israeli
14 ambulances.

15 Q. I think one of the --

16 MR. JACKS: May I have just a moment, Your Honor?

17 THE COURT: Yes.

18 Q. (BY MR. JACKS) Mr. Abington, it is -- You are not
19 purporting or attempting to portray yourself as a Hamas
20 expert, are you?

21 A. No, I am not.

22 Q. Okay. And as I understand your testimony, your testimony
23 is based on the available information that you had during the
24 time that you were the Consul General in Jerusalem from 1993
25 to 1997. Correct?

1 A. Yes.

2 Q. And you do not know and did not know who were the heads
3 or who were the members of the zakat committees that you have
4 been asked about. That was not something you were aware of.

5 A. It is something I would ask my staff to look at.

6 Q. But you do not have any information -- you are not able
7 at this time to talk about who the individuals were, what
8 their background was, what their affiliation was, any of that.
9 You don't have any recollection of that?

10 A. I don't.

11 Q. Okay. And that would be true about all of these zakat
12 committees and charitable societies that we have asked you
13 about. Is that correct?

14 A. Well, in the course of our duties at the consulate, we
15 were obviously trying to learn more about Hamas and how it
16 operated, and we would do reporting on that, which I think I
17 am not at liberty to go into.

18 But if you ask me specifically do I recall specific
19 names, other than the leaders and founders of Hamas, like
20 Khalid Mishal and Sheikh Yassin and others, you know, it was
21 15 years ago and I do not recall the specific names.

22 Q. And I am not even talking about necessarily the leaders
23 and founders of Hamas, but I am talking about you haven't
24 studied these zakat committees and you haven't studied to see
25 who is in there, how long they have been in there, what

1 newspaper articles there are out there about them. You don't
2 have access or you haven't had access to police interviews.
3 You haven't looked at court records.

4 MR. DRATEL: Objection, Your Honor.

5 THE COURT: Overruled. Go ahead.

6 Q. (BY MR. JACKS) You haven't had access to police
7 interviews.

8 MS. HOLLANDER: Objection.

9 THE COURT: That is the same objection, and I
10 overruled it, counsel.

11 Q. (BY MR. JACKS) You haven't had access or looked at court
12 records, prosecution records. You haven't done that kind of a
13 study, have you?

14 A. Court records of whom?

15 Q. Individuals.

16 A. Court records, Israeli court records, U.S. court records?
17 What?

18 Q. Have you looked at any court records?

19 A. No.

20 Q. Okay. All right.

21 A. I have read books about Hamas, but I haven't --

22 Q. Okay. I think your previous statement was you read part
23 of Matt Levitt's book. Is that correct?

24 A. I have read the entire book.

25 Q. And you have testified or you have stated that, you know,

1 you know that Hamas uses its social wing in order to gain
2 support for its political movement.

3 A. Yes.

4 Q. Okay. Do you know an individual named Azzam Tamimi?

5 A. What is the first name.

6 Q. A-Z-A-M or A-Z-Z-A-M. He is an author?

7 A. He what?

8 Q. An author?

9 A. I think he wrote a book on Hamas.

10 Q. Okay. But I take it you haven't read it.

11 A. No.

12 Q. Okay. You have testified about Mousa Abu Marzook. You
13 know who he is?

14 A. I do, yes.

15 Q. You know he lived in the United States.

16 A. Yes.

17 Q. And did you have any knowledge before becoming involved
18 in this case about the Palestine Committee?

19 A. No.

20 Q. Okay. And his relationship to that committee?

21 A. No.

22 Q. Okay. And the people that were a part of that committee
23 under him?

24 A. No, I did not.

25 Q. You didn't have access or you weren't even aware of that

1 until this case. Is that correct?

2 A. That is correct, yes.

3 Q. But again, just to go back to my last question, I mean,
4 it is your testimony that Hamas does use its social wing to
5 gather and garner favor among the Palestinian public. Is that
6 correct?

7 A. Yes.

8 Q. Do you know what Hamas' budget is, how much money they
9 bring in or spend in a year?

10 A. I don't think anyone has an accurate number for that
11 budget.

12 Q. What are some of the figures that you have heard?

13 A. I have heard anywhere from ten to hundreds of millions of
14 dollars, and there is such a wide range that I don't think
15 there is an accurate figure.

16 Q. Just take say \$100 million or \$150 million, if we could
17 just take that, where does that money go?

18 A. Well, I guess it goes to pay salaries, it goes to rent
19 places, it goes to buy supplies, medical supplies, school
20 supplies, I suppose. I don't know where it goes.

21 Q. So is it your testimony that they have a social wing,
22 they operate charities, they operate NGOs, but you don't know
23 which ones they are by name?

24 A. I know that they do that. Specific NGOs by name I can't
25 give you.

1 MR. JACKS: Just one moment.

2 I pass the witness, Your Honor.

3 THE COURT: Ms. Hollander?

4 MR. DRATEL: May we approach for a second, Your
5 Honor?

6 THE COURT: Yes. Come up.

7 (The following was had outside the hearing of the
8 jury.)

9 MR. DRATEL: May I have five minutes with counsel?

10 THE COURT: Sure.

11 MS. HOLLANDER: Before?

12 MR. DRATEL: Redirect, yes.

13 MS. HOLLANDER: I want to explain, Your Honor, my
14 concern about this was going into areas that I didn't think we
15 were supposed to go into.

16 THE COURT: But it didn't. I am not going to
17 approach the bench every time there is a concern unless I have
18 a concern. I just didn't have it, and it didn't go there.

19 MS. HOLLANDER: But I was just worried.

20 THE COURT: I thought that is what you were, but I
21 didn't, so that is why --

22 MR. DRATEL: I have a couple of applications, but we
23 can do it later. I have a couple of applications, but we will
24 do it later.

25 THE COURT: Do you want me to excuse the jury?

1 MR. DRATEL: Yes.

2 (The following was had in the presence and hearing
3 of the jury.)

4 THE COURT: Members of the jury, let's take a
5 ten-minute recess at this time.

6 (Whereupon, the jury left the courtroom.)

7 THE COURT: We will be in recess, ten minutes.

8 (Brief recess.)

9 THE COURT: Ms. Hollander?

10 MS. HOLLANDER: Thank you, Your Honor.

11 REDIRECT EXAMINATION

12 By Ms. Hollander:

13 Q. I just have a few questions. Did you receive daily
14 briefings from the United States government during the time
15 you were Consul General?

16 A. I did.

17 Q. And did the government of Israel share information with
18 the United States government?

19 A. It did.

20 Q. Did the Palestinian Authority share information with the
21 United States government?

22 A. Yes, it did.

23 Q. Were you instructed to have nothing to do with Hamas?

24 A. Yes, I was.

25 Q. In all of the years that you worked in Israel and Tel

1 Aviv and Jerusalem for the United States government, for the
2 Palestinian Authority as a consultant for them, did you ever
3 learn that the zakat committees were controlled by Hamas?

4 A. No.

5 Q. Were you ever told in any U.S. government briefing that
6 any zakat committee was controlled by or operated on behalf of
7 Hamas?

8 A. No.

9 MS. HOLLANDER: Pass the witness, Your Honor.

10 THE COURT: Mr. Dratel?

11 MR. DRATEL: No, thank you.

12 MS. MORENO: No, Your Honor. Thank you.

13 MS. CADEDDU: No, Your Honor.

14 MR. WESTFALL: No, Your Honor.

15 THE COURT: Mr. Jacks?

16 MR. JACKS: No, sir.

17 THE COURT: Mr. Abington, you may step down. You
18 are free to go.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Next witness?

21 MS. HOLLANDER: Your Honor, at this time the Defense
22 rests.

23 THE COURT: Okay.

24 MS. HOLLANDER: For Mr. Abu Baker, we rest.

25 THE COURT: Mr. Westfall?

1 MR. WESTFALL: Yes, Your Honor.

2 Ladies and gentlemen of the jury, on behalf of Abdul
3 Odeh, we rest.

4 THE COURT: Mr. Dratel?

5 MR. DRATEL: Your Honor, ladies and gentlemen of the
6 jury, on behalf of Mohammad El-Mezain, we rest.

7 THE COURT: Ms. Moreno?

8 MS. MORENO: Thank you, Your Honor.

9 Ladies and gentlemen of the jury, on behalf of Ghassan
10 Elashi, we rest.

11 THE COURT: And Ms. Cadeddu?

12 MS. CADEDDU: Yes.

13 Ladies and gentlemen of the jury, on behalf of Mufid
14 Abdulqader, the Defense rests.

15 THE COURT: Thank you.

16 If counsel will approach the bench.

17 (The following was had outside the hearing of the
18 JURY.)

19 MR. JONAS: I have piles of stuff to cross examine
20 Benthall on.

21 THE COURT: They just wanted to keep you occupied
22 last night.

23 MR. JONAS: When Ms. Shapiro finds this out, just
24 look at her face. It is going to be great.

25 THE COURT: Where are you?

1 MR. JONAS: We may have one rebuttal witness. We
2 told him to come here Monday morning. He is in Washington. I
3 can get on the phone and see if he can get here tomorrow. And
4 we also need to confer to make sure we absolutely want to call
5 him. He is the USAID witness. So I don't know how Your Honor
6 wants to proceed, if we will let the jury go for the day.

7 THE COURT: That is what we will do. Why don't we
8 let them go and just get together and see where we go from
9 here.

10 MS. HOLLANDER: Let them go and stay here?

11 THE COURT: Yes.

12 MS. HOLLANDER: Will Mr. Dratel have time to inform
13 the witness?

14 THE COURT: Yes.

15 The jury will be happy. We will just send them home for
16 the day.

17 (The following was had in the presence and hearing
18 of the jury.)

19 THE COURT: Members of the jury, the Defense has
20 rested, and a little ahead of schedule, so we are not quite
21 prepared so we are going to let you go for the day. This is
22 all the testimony you will hear today. You may hear some
23 tomorrow. We are not sure. We will discuss that with the
24 lawyers this afternoon. But we are near the end of the case,
25 so at some point here in the next few days we will get the

1 case to you.

2 It is important for you to continue to observe and abide
3 by all the instructions about not discussing the case with
4 anybody. Don't watch or read anything about it until you
5 finish your deliberations in this case.

6 Have a good evening and see you back at 9:00 in the
7 morning.

8 (Whereupon, the jury left the courtroom.)

9 THE COURT: Court will be in recess. If you will go
10 back into Judge Buchmeyer's chambers in the next 5 minutes or
11 so.

12 MR. JONAS: Your Honor, can we have 30 minutes?

13 THE COURT: In fact, why don't we do this. Go back
14 up to 16, and if you need some time. Just go back to 16 and
15 we will meet in the conference room and go from there.

16 MS. CADEDDU: Your Honor, on behalf of Mr.
17 Abdulqader, I renew at this time my Rule 29 motion for
18 judgment of acquittal on all counts, all elements of every
19 count.

20 MS. MORENO: On behalf of Mr. Elashi, I renew my
21 motion to dismiss on all counts and all elements of all
22 counts, and on double jeopardy grounds as well.

23 MS. CADEDDU: Ditto.

24 THE COURT: Yes.

25 Mr. Dratel?

1 MR. DRATEL: On behalf of Mr. El-Mezain, I renew my
2 Rule 29 motion with respect to sufficiency as to the single
3 count against Mr. El-Mezain on all elements, and collateral
4 estoppel, and double jeopardy.

5 THE COURT: Mr. Westfall?

6 MR. WESTFALL: Yes, Your Honor. On behalf of
7 Abdulrahman Odeh, I renew my request for a judgment of
8 acquittal on all counts, insufficient evidence on all elements
9 of all counts, and also double jeopardy.

10 THE COURT: Thank you.

11 And Ms. Hollander?

12 MS. HOLLANDER: On behalf of Mr. Abu Baker, we renew
13 our motion for judgment of acquittal pursuant to Rule 29, and
14 on the basis of double jeopardy, Your Honor.

15 THE COURT: And those motions are denied, the same
16 as the previous rulings. And we will see you in chambers at
17 4:00.

18 MR. DRATEL: And, Your Honor, I just have one short
19 application, which is I move for a mistrial based on the cross
20 examination of Mr. Abington in which Mr. Jacks explicitly and
21 repeatedly referred to matters for which we do not have
22 confrontation right--police statements, prosecution reports,
23 court records, all of which is covered by *Crawford* and the
24 Sixth Amendment.

25 THE COURT: And everybody can join in that. I will

1 deny those. He did not get into what any of those statements
2 were. He was asking him simply whether he looked at them.
3 That is permissible.

4 All right. I will see you in chambers at 4:00.

5 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/09/2009

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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